



MODERN CHARITIES, ANCIENT RULES

PUBLIC POLICY ACTIVITIES AND CANADA'S GLOBAL DEVELOPMENT SECTOR

DECEMBER 2016

SUBMISSION TO THE CANADA REVENUE AGENCY'S
CONSULTATION ON CHARITIES' POLITICAL ACTIVITIES

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ABOUT CCIC

The Canadian Council for International Co-operation (CCIC) is Canada's national coalition of non-profit and charitable organizations working globally to achieve sustainable human development. With over 80 members, including many of Canada's leading development and humanitarian organizations, CCIC convenes and coordinates the international cooperation sector in Canada and offers independent research and analysis on Canadian and global agendas and trends. A nationally and internationally recognized voice on questions of development effectiveness, the viability and the health of the international sector, the role of civil society globally and Canada's role in the world, CCIC seeks to end global poverty and to promote social justice and human dignity for all.

ABOUT THIS SUBMISSION

CCIC member organizations have been working together for many years to address charity regulation issues affecting the sector. Charity regulation reform and clarification have been identified by its membership as a priority to improve the enabling environment for Canadian organizations working to end global poverty and promote sustainable human development. CCIC frequently organizes workshops for members with charity law experts and has an active CRA Reference Group of member organizations dedicated to examining the legal framework for the sector. CCIC is also an active participant in other umbrella groups and coalitions that work collectively on issues of the legal and regulatory framework for the Canadian non-profit and charitable sector.

To further inform this submission, CCIC conducted two national surveys of international development and humanitarian assistance organizations in September 2016 and October 2016 to gather knowledge and views on (a) the rules related to charities' 'direction and control' requirements and (b) 'political activities' respectively. The latter survey, on "The Rules Governing 'political activities' for Registered Charities", will be referenced throughout the submission and will hereafter be referred to as the "political activities survey" (see more below). There were also webinars conducted in preparation of this submission, to present and discuss the results of the survey. And finally, draft key messages were circulated with all members and a draft submission shared with the CRA Reference Group for feedback and inputs. The CCIC team is grateful for the support received from Juniper Glass (Lumiere consulting), and John Cameron (Dalhousie University). This submission reflects key perspectives of the CCIC membership as a whole, as emerging from the surveys and discussions, but not necessarily those of all individual member organizations.

This submission is organized into three sections: SECTION I includes the case for public policy activities, SECTION II includes responses to the CRA's online consultation questions, and SECTION III includes CCIC's key recommendations to the CRA, on behalf of the Canadian international development and humanitarian assistance sector. A message from the President-CEO and a conclusion book-end the submission.

THE SURVEY

In October, 2016, CCIC and the Inter-Council Network of Provincial/Regional Councils for International Cooperation (ICN) conducted a survey of their joint membership—approximately 400 organizations in the international cooperation and humanitarian assistance sector. The objective was to assess the sector’s knowledge, experiences, and challenges with the CRA regulations on ‘political activities’ for registered charities. 97 organizations responded, among them 81 registered charities, with an average of 64 organizations responding to questions about CRA rules on ‘political activities’. The high response rate (well above the 15% average survey response rate) is an indication of how critical ‘political activities’ are as an issue for the international development and humanitarian assistance sector. Figures 1-3 illustrate geographical and size presentation across survey respondents.

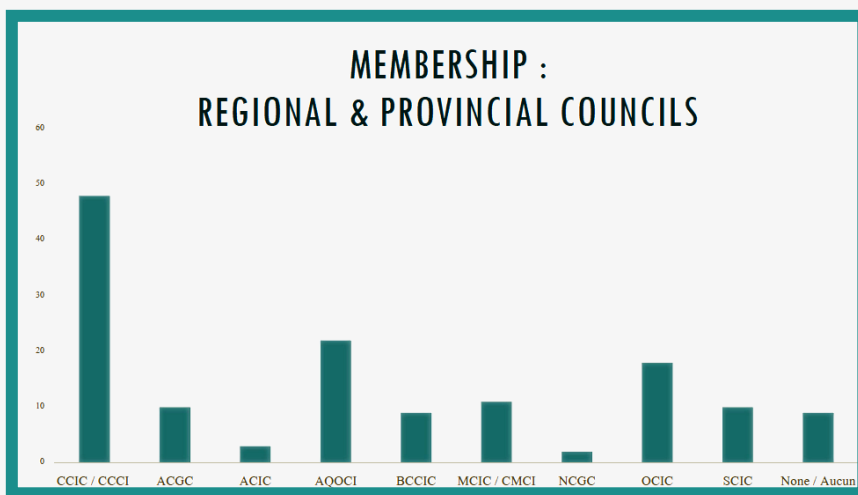


Figure 1—Member in provincial & regional councils

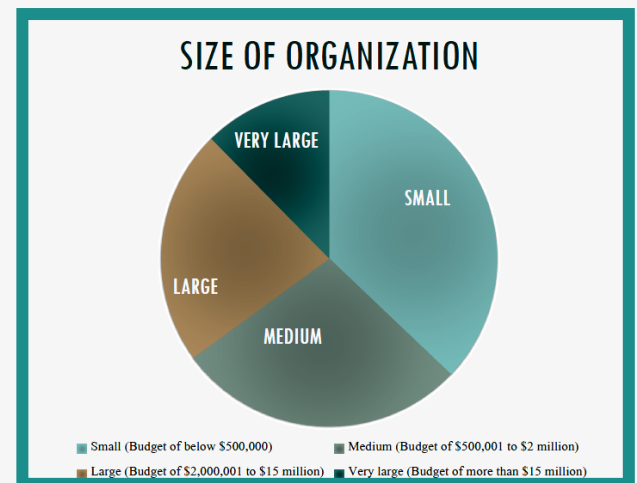


Figure 2—Size of organization

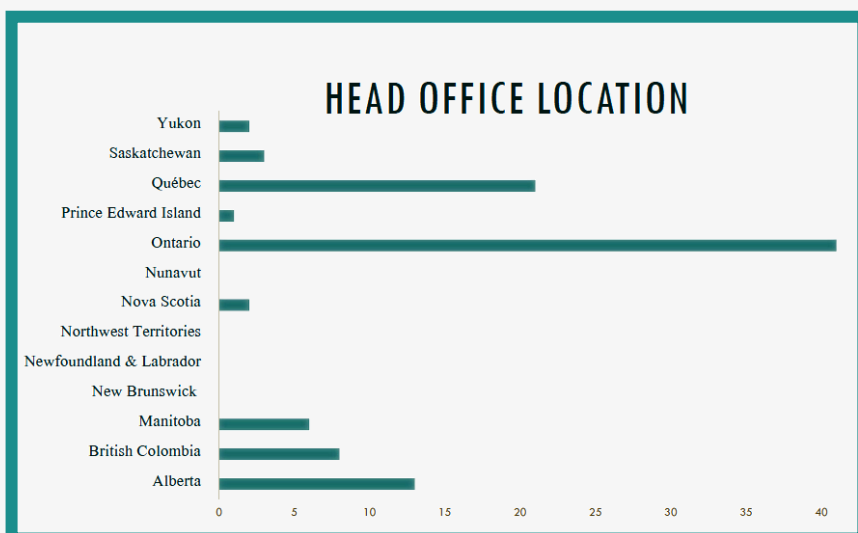


Figure 3—Head office location

MESSAGE FROM THE PRESIDENT-CEO

The Canadian Council for International Co-operation (CCIC) appreciates the opportunity to contribute to the Canada Revenue Agency's consultation on charities' political activities. CCIC and its members welcome the federal government's commitment to developing a new legislative framework to strengthen the non-profit and charitable sectors, as stated in the mandate letters to the Minister of National Revenue, the Minister of Finance and the Minister of Justice.

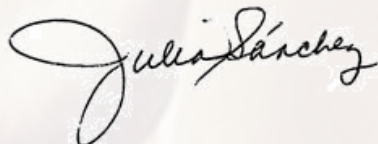
This commitment, and the consultation on the regulation of charities' public policy activities, is timely. As Canada enters the 150th year of Confederation, modernizing the rules governing non-profits and charities should be a top priority for ensuring that Canada is "fit-for-purpose" for the coming decades.

The current consultation coincides with the adoption of a new UN global framework for development cooperation — Agenda 2030 and the Sustainable Development Goals (SDGs) — and Global Affairs Canada's International Assistance Review process, in which CCIC and its member organizations have actively participated. Both make new and bold commitments to a human-rights based approach, reaching the most vulnerable, and tackling the root causes of poverty, with the aim to ending it by 2030. These landmarks point to the increasing need to change the way charities engage in international development and humanitarian assistance work—particularly the public policy dimensions of the challenges and opportunities that lie before us.

The present submission to CRA is written under the understanding that a comprehensive effort to modernize the legislative framework for charities will take place in the near future. Thus, while this submission focuses on international development and humanitarian assistance charities' public policy activities and the relationship with existing regulations, it also draws connections to other aspects of charitable regulations and laws that closely relate to political activities and require modernizing in order to better respond to current and future needs and contexts.

The key recommendations contained in this submission are that: 1) the Government of Canada work on developing a new legislative framework, in close collaboration with the charitable sector; 2) the CRA focus on supporting, and not restricting, charities' engagement in public policy processes; 3) the CRA remove barriers imposed by direction and control measures; 4) restrictions on political activities be removed; and 5) in the immediate term, clarify and improve guidance around existing rules and regulations.

CCIC and its members organizations are at the forefront of Canada's efforts to build a fairer, more sustainable, and safer world—at home and abroad. We will be active contributors to future consultative processes on developing a new, modernized legislative framework for the non-profit and charitable sector.



Julia Sánchez
President-CEO, Canadian Council for International Co-operation

SECTION I

THE CASE FOR PUBLIC POLICY ACTIVITIES

THE CASE FOR PUBLIC POLICY ACTIVITIES

Charities in the international development and humanitarian assistance sector should be supported, rather than restricted, in their public policy activities which seek to bring public attention to causes or issues that may not be heard otherwise. These charities work in unique contexts and have features that are not well-addressed by ‘political activity’ and other aspects of the current regulations.

Canadian charities and non-profits working internationally are guided by internationally agreed upon principles (such as *The Istanbul Principles for Development Effectiveness* and the commitments of the *Global Partnership for Effective Development Cooperation*) in their work to end poverty and deliver humanitarian assistance. Important principles, such as ownership of development priorities by developing countries and inclusive development partnerships, are grounded in lessons from global best practices and a long history of partnership between development and humanitarian assistance CSOs, governments, and international partners. Current CRA charity regulations hinder international development and humanitarian assistance charities advocating for their causes and the people they serve by contradicting good development principle and practice.

International development and humanitarian assistance charities recognize that public policy activities, in Canada and abroad, are critical to successfully meeting long-term sustainable development cooperation goals.

A. PUBLIC POLICY ACTIVITIES ARE AN IMPORTANT ASPECT OF INTERNATIONALLY-FOCUSED CHARITIES’ WORK IN CANADA BECAUSE:

- Public policy activities contribute to international development organizations’ positive impacts and ability to carry out their purpose and benefit society. Given the imperative to tackle root causes of poverty and injustice, there is recognition that social change can only happen if rules and laws are in place that protect basic human rights. Working towards this requires charities to engage in and support a range of public policy activities.
- Canadian international cooperation organizations have expertise on the effects of Canadian laws and policies on well-being of vulnerable populations in other parts of the world. Their knowledge and input can help improve Canadian policies to ensure greater policy coherence.

“ Ultimately our mandate/mission requires that we engage in political activity. We seek to change the world for children and implement sustainable change across education, health, etc. This requires that governments invest in children and put children at the heart of their policy making. We will fail if we don't engage decision makers within government both at the bureaucratic and political levels. ”
- CCIC member

- In the *International Development and Humanitarian Assistance Civil Society Partnership Policy*, Global Affairs Canada highlights the policy work of Canadian civil society organizations (CSOs) dedicated to international development and humanitarian assistance, including their engagement in research, policy dialogue, and advocacy on issues of importance to international development and humanitarian objectives.

B. PUBLIC POLICY ACTIVITIES ARE IMPORTANT ASPECT OF INTERNATIONALLY-FOCUSED CHARITIES' WORK ABROAD BECAUSE:

In developing country contexts, poverty reduction and the securing of human rights can often only be achieved with changes to government laws and policies. The support that Canadian international development organizations provide to partners in developing countries includes financial and technical resources for their engagement in public policy activities in their own countries.

According to Global Affairs Canada's policy, Canadian CSOs dedicated to international development and humanitarian assistance:

- Support the realization of human rights internationally, in particular, those of vulnerable and marginalized groups such as children, persons with disabilities and from ethnic and religious minorities and of indigenous origin, especially the rights of women and girls

And civil society organizations in developing countries and globally:

- Enhance the capacity of individuals and groups to realize their human rights
- Mobilize the voice of poor and marginalized people, and advocates for their interests in communicating with governments or holding governments to account
- Promote transformative change by addressing underlying causes of poverty or raising new issues and perspectives

“ We should be seen as a partner to the government in the implementation of international development and humanitarian policy. We provide a critical link between policymakers and on-the-ground realities where policies and decisions taken will have impact. ”
- CCIC member

An example of a Canadian charity supporting public policy work in developing countries is World Vision Canada, whose mandate is to “create a better world for children.” Over decades, World Vision Canada has come to realize the importance of assisting communities to undertake local advocacy to improve policies affecting children and families. The Canadian organization now ensures that their partner organizations have resources and skills to engage both community members and governments to bring about changes to health and education policies and systems. The public policy work supported by World Vision Canada has been an important part of their local partners’ success in improving the well-being of children and families in the Global South.

CASE STUDY I—SUPPORTING PARTNERS IN THE GLOBAL SOUTH TO INFLUENCE LOCAL PUBLIC POLICY

World Vision Canada has funded long-term local development programs in the Global South for decades. Over the last 5 years, they have worked to integrate a local-level advocacy program called *Citizen Voice and Action* (CVA) into most of their programs. CVA equips communities to engage in constructive dialogue with government to hold it accountable for the services that children and their families use.

CVA has three phases. In Phase I, World Vision’s local partner gathers information on current government policy, structure and fora for engagement. They also build relationships with, and train, community-based organizations (CBOs) in the CVA process. During Phase II, World Vision’s local partner helps CBOs bring community members together to create awareness of their legal rights under current government frameworks. The community members also meet with government service providers to agree on service standards and establish a monitoring plan. In Phase III, the community organizes to monitor current service provision and

meets with government to share results and influence policy change.

In Uganda, four communities that implemented CVA saw improvements in education services (teacher attendance, provision of meals, gender segregated toilets, provision of supplies) and health services (health worker attendance, availability of drugs and appropriate staff, respectfulness of staff, cleanliness of facilities). Improvements were also observed by the local government’s availability for meetings, a strengthened sense of citizen empowerment, and a more active, equipped and coordinated civil society.

Community lobbying for health staff at the local level was part of the evidence used in a successful joint health coalition, which contributed to a number of Uganda’s parliamentarians blocking the 2012/13 budget, until the government increased the health budget by \$19.8m to fund 6172 additional health workers.

SECTION II

RESPONSES TO THE CRA CONSULTATION QUESTIONS ON POLITICAL ACTIVITIES FOR REGISTERED CHARITIES

I. CARRYING OUT POLITICAL ACTIVITIES

II. CRA'S POLICY GUIDANCE

III. FUTURE POLICY DEVELOPMENT

I. CARRYING OUT POLITICAL ACTIVITIES



ARE CHARITIES GENERALLY AWARE OF WHAT THE RULES ARE ON POLITICAL ACTIVITIES?



CCIC's survey indicates that international development organizations' level of awareness of the rules on 'political activities' is **moderate**.

The results of the "political activities survey" show that 63% of organizations perceive their staff to have a solid understanding of the CRA rules on 'political activities' and 44% perceive their Board of Directors to have a solid understanding of these rules.

In the cases where organizations indicated that they did not have a solid understanding of these rules, they reported the following explanations:

- Need for more training (42%)
- CRA guidelines and educational materials on 'political activity' are confusing (29%)
- Examples provided in CRA educational materials are too simplistic and do not reflect the challenges or realities of internationally-focused organizations (20%)
- Organizations do not have enough resources to adequately assess and understand CRA rules on 'political activities' (15%)

LEVEL OF ENGAGEMENT WITH AND REPORTING OF ‘POLITICAL ACTIVITIES’

Despite the challenges understanding the CRA regulations, the survey found that the same number of international development charities **report** ‘political activities’ on their T3010, and also **engage** in activities currently classified as ‘political.’ The “political activities survey” shows that 30% report on ‘political activities’, 64% do not report ‘political activities’, and 6% were unsure. Interestingly, of the 64% that did not report ‘political activities’, approximately 11% of these indicated they actually undertook diverse ‘political activities’.

Some members indicate that because their ‘political activities’ are below the 10% threshold, they do not report political activity to CRA. Others indicate that they would like to engage more in public policy activities but have decided to err on the side of caution and not engage. This is mainly due to the organizations’ lack clarity on what constitutes a ‘political activity’ or their concern with inviting unnecessary attention from the CRA.

Figure 4 illustrates how often responding organizations undertake various public policy activities. The activities shaded in blue (first 5) are considered ‘charitable’ by CRA; activities shaded in peach (the last 5) are considered ‘political’. On the whole, charities in the international development sector engage more frequently in ‘charitable’ versus ‘political’ public policy activities. The most common public policy activities are: distributing information to and responding to requests from government representatives; making statements to the media for a particular position on a policy issue; making policy submissions to governments; and encouraging the public to contact government representatives about a particular issue.

Figure 4—The frequency with which charities’ engage in the following activities to influence public policy in Canada

PUBLIC POLICY ACTIVITIES	A FEW TIMES /	A FEW TIMES / MONTH	A FEW TIMES /	IRREGULAR	NEVER	RESPONSE COUNT
Distribute information to government representatives / officials	2	12	19	17	20	70
Respond to information request from government representatives	2	11	18	26	14	71
Make written or oral submissions to government bodies	0	10	18	24	18	70
Conduct or disseminate research (without any call to public action)	1	7	22	17	22	69
Host all-candidates meetings during an election campaign	0	1	0	10	59	70
Encourage the public to contact government representatives	2	4	18	15	31	70
Make statements through media for a particular position on public policy issues	1	6	11	22	30	70
Publicly urge government representatives / officials to adopt a policy position	1	4	14	21	31	71
Conduct or disseminate research with a call to action	0	3	19	18	31	71
Organize an event to promote a position on a public policy issue	0	3	17	21	28	69
Other (please specify)						7



Charitable activity



Political activity



WHAT ISSUES OR CHALLENGES DO CHARITIES ENCOUNTER WITH THE EXISTING POLICIES ON CHARITIES' POLITICAL ACTIVITIES?



The issues and challenges international development and humanitarian assistance charities encounter include:

Overall, current CRA rules and their unclear and inconsistent interpretation and application appear to limit the willingness of Canadian charities to undertake public policy work and to support their developing country partners in their efforts hold their own governments to account. This in turn limits their impact on reducing poverty and upholding human rights. The lack of clarity about the regulations, as well as the political audit process itself, seem to be diverting a disproportionate amount of charities' resources towards legal advice and administrative tasks related to meeting CRA guidelines. These resources could be better devoted to fulfilling the charities' missions.

Legislation that is restrictive, such as the complex delineation of which non-partisan activities are 'charitable' and which are 'political', has an impact on charities' behaviour. To encourage charitable organizations to fulfill their role in public policy processes, the limits on permissible activities should be reduced or, according to some, removed all together. The challenges posed by existing policies are of four main categories:

- A. Lack of consistency with other federal agencies, specifically Global Affairs Canada
- B. Lack of consistency with international development best practices
- C. Complexity of the regulations and interpretation, and lack of clarity on their application
- D. Challenges and risk aversion related to audits

A. LACK OF CONSISTENCY BETWEEN CHARITY REGULATIONS AND GLOBAL AFFAIRS CANADA'S ON ROLE OF CHARITIES IN PUBLIC POLICY

The rules on 'political activity' and 'direction and control' contradict Global Affairs Canada's expectations that the poverty reduction projects they fund will contribute to sustainable change. Global Affairs Canada (GAC)'s priorities and its commitment to support sustainable change in some of the world's poorest and most fragile regions encourages Canadian charities to *increase*, not limit, their engagement in public policy activities. GAC is currently engaging in an International Assistance Review (IAR) process with CCIC, member organizations and other stakeholders from the international development sector. The IAR marks an important shift in the focus of Canada's international development efforts from poverty alleviation to tackling the structural causes of poverty and inequality, and underscores the importance of a human rights-based approach to international cooperation and humanitarian assistance. Addressing both root causes and ensuring human rights requires significant public policy engagement.

“ The Canadian government says that it wants sustainable change. It is written into the logic model of Global Affairs Canada for projects. Sustainable change requires changes in how governments abroad and at home do things... Canada can't have it both ways. It can't ask the charitable sector to help deliver sustainable change in our programs and then tie our hands with CRA rules. ”
- CCIC member

B. LACK OF CONSISTENCY WITH INTERNATIONAL DEVELOPMENT BEST PRACTICES

CRA regulations related to 'direction and control' combined with 'political activity' restrictions further impede charities' involvement in public policy activities. Equitable partnerships with communities and civil society organizations in the Global South are recognized as a international best practice in development. International standards continue to affirm equitable partnership principles, including the *Busan Partnership for Effective Development Cooperation* and *The Istanbul Principles for Development Effectiveness*.

In order to achieve poverty reduction and the realization of human rights in developing countries, Canadian charities work in close partnership with organizations in the Global South, who are not qualified donees. Global Affairs Canada has clearly acknowledged and supported the role that Canadian international development and humanitarian assistance organizations play working directly with developing country organizations to achieve sustainable human development goals. 'Direction and control' requirements squarely contradict international best practices in global poverty reduction.

International development best practice also encourages organizations to work together rather than in isolation. Coalitions help increase the quality and effectiveness of individual charities and advance public policy objectives. 'Direction and control' requirements pose a great deal of challenges for Canadian charities that are active in coalitions which engage in public policy activities. This is particularly true when the coalition is not constituted as a registered charity, and when membership includes charities and non-charities.

C. LACK OF CLARITY AND COMPLEXITY OF THE REGULATIONS

The current regulatory distinction between ‘charitable’ and ‘political’ lacks clarity and does not reflect common understanding of terms such as political, advocacy or lobbying. The difference between non-partisan and partisan activities is clearer than that between ‘charitable’ and ‘political’ activities. However, international development organizations continue to experience challenges related to CRA’s interpretation of ‘partisan’. Consequently, organizations may choose to not engage in ‘political activities’ due to the perceived risk that they may be interpreted as ‘partisan’.

- **Administrative and legal expense**

The lack of clarity regarding ‘political activities’ has forced charities to spend scarce resources on legal counsel and additional administrative support. The CRA’s requirement to provide detailed tracking of ‘political activity’ is described by organizations as “onerous” and many would prefer to allocate these resources to their charitable purposes. Several organizations report that since the ‘political audits program’ began in 2012, they must regularly consult charity lawyers to assess which of their activities might be considered ‘political’ by CRA (*see* Case study II, pg. 17).

- **Social media**

Social media is an important tool to help charities raise the profile of the organization and its important work. It is used for communications, advocacy, programming, dialogue with stakeholders, programming, etc. It also provides a useful setting to engage in public policy activities, including raising public awareness on important issues. Charities using social media are vulnerable to the risk of engaging in prohibited ‘political activities’ without their knowledge, consent, or control. Unregulated social media platforms like Twitter, Facebook, blogs, news commentaries, are open to the public. Anyone can repost commentary out of context, suddenly making an organization’s statement appear political. Organizations also run the risk of having their work misinterpreted, cited, or used in partisan political statements. There is widespread concern that problems will arise with CRA as a result of the prominence of social media activity. For example, organizations wanting to apply for charitable status may have greater difficulty if their social networking content is deemed to be inappropriate. Similarly, registered charities with ‘inappropriate’ social media content are potentially more likely to be audited by the CRA (Blumberg, 2016). Charities working in international development and humanitarian assistance must use scarce resources to mitigate the risks related to social media activity. An example is Inter Pares, a charity that works with communities in Africa, Asia and Latin America to advance peace and equality. An inordinate amount of time is being devoted to vetting and accounting for all social media posts to evaluate if they might be considered ‘charitable’ or political’ (*see* Case study II, pg. 17).

CASE STUDY II—USING SCARCE RESOURCES TO MITIGATE RISKS ON SOCIAL MEDIA

Inter Pares, an Ottawa-based Canadian organization, is active on social media. Inter Pares has 1210 Twitter followers, 1487 Facebook friends, and a public reach of 14,500 through supporters and e-newsletter circulation. The organization estimates that it uses 50% of a staff position (26 weeks/year) writing content to raise public awareness on issues, which is dispersed through tweets, Facebook posts, op-eds, and blogs.

Inter Pares has a longstanding history of providing supporters with additional content—information, analysis and commentary produced by experts, news reports, columnists and academics—related to the issues Inter Pares addresses. With the advent of social media, that content is now primarily disseminated through these platforms.

Since the CRA ‘political’ audits began in 2012, Inter Pares has paid over \$1,500 in cash, and has used approximately \$10,000 in pro bono legal assistance

from charity lawyers on the risks involved in their social media activities and those of their supporters. All Inter Pares staff who use social media in their job descriptions (85% of staff) are provided a half-day training on CRA defined ‘political activity’. Inter Pares finds that because the definitions are non-intuitive and fluid, and that information and analysis produced by outside experts is not prepared with CRA’s definition of political or partisan activity in mind, the organization must periodically provide “booster” training.

Inter Pares has implemented a taxing communications plan that requires anyone contemplating a potentially ‘political’ post to vet the content with at least two other people in order to assess the risk of prompting a CRA audit. Inter Pares seeks regular legal counsel on issues that may arise in order to prevent the risk of endangering its charitable status, which has become a frustrating issue that frequently requires valuable management time.

- **Complexity of participating in coalitions that do advocacy**

CRA regulations on ‘political activities’ also affect charities’ ability to engage in public policy activities collaboratively in coalitions. Coalitions play an important role in the non-profit and charitable sector, facilitating policy analysis and advocacy by pooling resources and knowledge. The current regulations are unclear about the types of coalition activities that charity members must account for as ‘political’. In addition, it is unclear what types of financial contributions are acceptable for coalitions working on public policy issues. Coalitions may be informal alliances of organization or registered as charities or nonprofits. Participating organizations themselves may or may not be registered charities, which adds to the complexity of CRA reporting.

Financial contributions by participating organizations may be seen as membership fees, gifts or other types of revenue. In addition, coalition work can lead to double-reporting of ‘political activities’ when each individual charity, as well as the coalition itself, reports on the same activity, for example a policy discussion paper with a call to action. Navigating CRA’s ‘political activity’ rules, while simultaneously satisfying CRA’s requirements for ‘direction and control’, has been a major challenge for a prominent national coalition. The coalition has asked to remain anonymous due to the sensitive nature of existing and future CRA audits. (*see Case study below*).

“ The CRA rules do not facilitate different charities working together on common objectives, particularly when activities will include political activities. ”
- CCIC member

CASE STUDY III—A COALITION WORKING TOGETHER TO DO PUBLIC POLICY ACTIVITIES

A Canadian coalition was formed by a large number of independent Canadian charities and civil society organizations to promote respect for human rights. In addition to public education and research on human rights issues, one of the principle activities of the coalition has been to encourage legislative change through engagement with public officials (not a CRA defined political activity) and publically promote policy changes (clearly a political activity). Since 2012, the coalition has been inundated with issues related to CRA ‘political activities’ regulations, which have hindered its ability to fulfill its objective, complicated fundraising efforts, increased administrative burdens, and strained its relationship with coalition members.

Since the political audits began, the coalition partners have invested considerable time and scarce resources in clarifying each of their own organizations’, as well as the coalition’s, understanding of CRA requirements on ‘political activity’. The coalition also experienced

difficulties fundraising among coalition members, who were apprehensive of CRA regulations on ‘political activities’. For example, organizations who were strong coalition supporters, were reluctant to provide funds for ‘political activity’.

The work of the coalition was further challenged when one of the coalition charities underwent a CRA political audit. The CRA audit findings indicated that the charity had not maintained adequate ‘direction and control’ of the charitable funding allocated to coalition activities, and was contributing to a non-qualified donee. Since the CRA audit, the coalition implemented a structure to satisfy CRA regulations. Nevertheless, the structure has elevated one charity to a management position, which contradicts the preferred non-hierarchical structure, which seeks to recognize the collective identity and efforts of all members.

- **Training staff, volunteers and partners**

Organizations in the international development sector report that they invest time and resources to train staff and members of the board of directors on the rules for ‘political activities’. However, it is difficult for charitable organizations to train their volunteers on these rules, particularly given high volunteer turn-over. It is also difficult for international development organizations to explain and justify Canada’s ‘political activity’ rules to developing country partners. Furthermore, partner organizations in the Global South often lack the administrative and financial resources to track ‘political activities’ according to CRA standards.

Canadian charities do their best to communicate the ‘political activity’ rules to partners and to volunteers, but are concerned that the time and resources required divert efforts away from their core purpose of poverty reduction. If the rules on documenting public policy activities are simplified, it will assist volunteer-based organizations as well as strengthened relationships with developing country partners.

D. CHALLENGES AND RISK AVERSION RELATED TO AUDITS

According to the results of the “political activities survey”, the proportion of charities working in international development and humanitarian assistance that have recently undergone CRA audits is disproportionate to that of all Canadian charities. The survey indicates that 25% of respondents (20) have been audited in the past 5 years, and of these, 4 have been audited twice since 2010. The survey also revealed that CRA auditors examined the organization’s ‘political activities’ in 50% of these audits, and the ‘direction and control’ of partner organizations in 65% of these audits, in addition to other compliance issues.

In the experience of some organizations, rules on ‘political activities’ are assessed and applied differently, depending on the interpretation of the specific CRA auditor. There does not appear to be a uniform and objective application of the rules. This suggests that the rules (and their interpretation) are equally confusing for charities, legal counsel and CRA auditors.

Audits demand a significant amount of a charity’s—and its partner’s—resources. Substantial resources are also used to comply with the requirements to track ‘political activities’ and ‘direct and control’ of developing country partners. The fear over losing charitable status, exacerbated by the experience of some international development organizations that have recently gone through CRA audits, has led to widespread concern regarding public policy engagement. The increased risk aversion of Canadian charities towards engaging in public policy work undermines their capacity to fulfill their charitable purposes and missions. CRA’s political audit program appears to have had the effect of reducing some charities’ willingness and ability to contribute to public policy processes in Canada and to support civil society organizations in the Global South. **37% of organizations in the survey indicated that they had been affected by the ‘advocacy chill’.**

The case of CoDevelopment Canada (CoDev) demonstrates how the political audits program has negatively impacted their community work in developing countries. CoDev fosters community empowerment in Latin America and educates Canadians about human development in this region. Audited for ‘political activity’ in 2013, although only 4% of its resources were devoted to such activity, CoDev has had to divert significant human resources away from program implementation both during the audit and now on an ongoing basis (*see* Case study below).

CASE STUDY IV— THE IMPACT OF CRA POLITICAL AUDITS ON CHARITABLE ACTIVITIES

CoDev is a BC-based NGO that works for social change and global education in the Americas. In 2009, CoDev underwent its first CRA audit in 25 years. In 2013, the charity was again audited by the CRA – this time for ‘political activities’. In 2012-2013, CoDev reported \$1.3 million in expenses with approximately 4% going to ‘political activities’. To meet the demands of the CRA audit, CoDev was required to translate hundreds of pages annually from Spanish to English or French. The financial documentation comes from multiple partners in Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Cuba, Colombia and Peru, and includes financial reports, receipt listings, and individual receipts.

CoDev’s auditing process with the CRA lasted 15 months. The charity estimates that it spent a minimum of 240 hours on the audit—several hours per month for each of the 5 staff members, over a 15 month period, and at periods required the full time

engagement of the Executive Director. Unable to pay lawyers, CoDev used pro-bono legal services to prevent losing its charitable status. The CRA audit resulted in extensive newspaper and radio coverage. After 15 months, CoDev was able to fulfill the CRA administrative requirements resulting from the audit. In October 2014, CoDev hired a part-time Program Assistant dedicated to translating narrative and financial reports to ensure compliance with the administrative demands, representing a significant and ongoing use of their funds.

In addition, the CRA’s insistence on a strict adherence to its narrow interpretation of CoDev’s objectives forced the organization to abandon much of its responsive programming, which facilitated Canadian partners’ response to emergency appeals for Latin American partners (for natural disasters, legal support in the case of mass arrests, etc.).

II. CRA'S POLICY GUIDANCE

Q

IS THE CRA'S POLICY GUIDANCE ON POLITICAL ACTIVITIES CLEAR, USEFUL, AND COMPLETE?

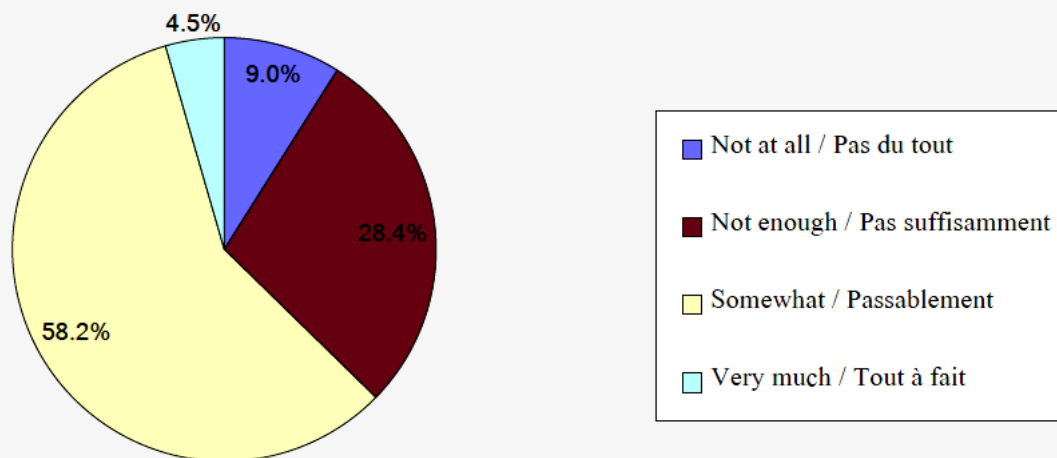
A

The CRA's policy guidance on 'political activities' is **somewhat** clear useful and complete.

A majority (79%) of international development organizations responding to the “political activities survey” has consulted the CRA guidelines on political activity. Over one third (37.4%) found the guidelines ‘not enough’ or ‘not at all’ clear, useful and complete, indicating that increased clarity could be useful.

Figure 5—CRA's policy guidance on 'political activities'

Is the CRA's policy guidance on 'political activities' **clear, useful, and complete?**



While charitable organizations in the international sector would like greater clarity on the rules on ‘political activities’, they are also concerned that increased precision in the rules or guidance could require additional resources for administration and legal fees, which divert resources away from charitable activities. Until the process to develop a new legislative framework for non-profits and charities is complete, the CRA should address certain concerns and challenges in the current guidance. Guidance improvement would reduce the risks associated with engaging in public policy activities.

IN ORDER TO IMPROVE THE CRA POLICY GUIDANCE, THE CRA MUST:

- Consider the potential impacts on charities’ expenditure on administrative and legal services related to compliance requirements when developing guidance on current rules
- Ensure that any clarification or revisions to the rules and requirements *simplify*, rather than complicate, the rules and requirements on ‘political activities’
- Ensure that any revisions to the requirements or clarification of the rules respect the principle of “proportionality” - that the requirements are proportionate to the problems they are seeking to avoid or address.

THE CRA MUST MAKE THE FOLLOWING AMMENDMENTS TO ITS POLICY GUIDANCE:

- **Provide clearer definitions**

Current regulations’ distinction between ‘charitable’ and ‘political’ is not obvious nor in keeping with common, everyday uses of terms such as “political,” “advocacy” or “lobbying.” Although the difference between non-partisan and partisan activities is generally found to be clearer, the way that ‘partisan’ is interpreted by CRA can sometimes pose challenges for international development organizations.

“ Make the definition of partisan very clear and restricted (ex: take the same definition as exists in the Elections Act). ”
-CCIC member

- **Include more relevant and sector-specific examples**

International development charities have some unique features that make the application of charity regulations less straightforward than for domestically-focused charities. The examples given in CRA guidance on ‘political activities’ could be improved by providing more realistic examples that come from the international development sector. As demonstrated in the “political activities survey”, 20% of organizations believe that examples relevant to international development organizations would be helpful.

- **Provide clear advice on request**

A number of organizations indicated that when they asked for clarification by CRA, it was sometimes challenging to receive an adequate or definitive response. Improved communication from CRA would go a long way to assisting charities to comply with current rules. The CRA must provide accessible, timely individualized advice to charities that provides concrete guidance on ‘political activities’ and other charity regulations.

- **Increase transparency of audits**

The results of the “political activities survey” indicate that a disproportionate number of international development charities are being audited. Accordingly, it would greatly benefit the sector to have more aggregate information from CRA about the organizations (and sectors) undergoing audits, the reasons behind the audits, and the results and lessons learned from the audits. There is a widespread perception that CRA auditors begin an audit on a particular ground and then “dig” for any other potential compliance problems within the charity once the audit is underway. Some organizations were not provided with any reason for the audit. Some who asked for information prior to an audit were not given that information. Additionally, the interpretation of the rules does not appear to be uniform across all personnel in CRA, which suggests that the guidance to CRA auditors needs to be reinforced.

- **Simplify tracking and documentation requirements**

CCIC members brought up a number of cases in which specific issues are not yet mentioned or described in the CRA guidance on ‘political activities’. Some hypothetical situations include:

- If an organization re-tweets or re-posts an external media article on social media that is critical of a particular government politician—*is this a partisan activity?*
- If an individual or party running for an election adopts a charities’ public policy recommendation into their platform, but the charity did not make a public call to action—*is this a partisan activity?*
- If policy research and reports do not end with a call to action, they are considered ‘charitable’ not ‘political’ activity. Presumably the cost of research that does not end with a call to action should not be considered political activity either – however the cost of a related call to action, which might use results from the research, should count. *How should organizations track and account for this distinction?*

The complexity of these questions indicate that rules must be simplified and charities require a clearer way to demonstrate accountability for their charitable purposes.

III. FUTURE POLICY DEVELOPMENT

Q

SHOULD CHANGES BE MADE TO THE RULES GOVERNING POLITICAL ACTIVITIES AND, IF SO, WHAT SHOULD THOSE CHANGES BE?

A

Changes **should** be made to the rules governing ‘political activities’ and result in a new legislative framework for non-profits and charities.

The federal government must undertake a consultative process to create a regulatory and legal framework for charities and non-profits that better enables the sector to achieve its public benefits, including reforming the *Income Tax Act*.

A NEW LEGISLATIVE FRAMEWORK FOR NON-PROFITS AND CHARITIES MUST:

- A. Expand and modernize charitable purposes
- B. Revise ‘charities own activities’ and replace with simpler accountability mechanisms when making contributions to non-qualified donees
- C. Support charities’ capacity to engage in public policy processes through reduced limitations and redefined permissible public policy activities, simpler reporting, and more transparent audit processes
- D. Clarify ‘partisan activities’

A. EXPAND AND MODERNIZE CHARITABLE PURPOSES

Existing charitable purposes do not accurately reflect the role of charities in a modern society, nor facilitate the role that the federal government and Canadian society expect of charities. In developing a new legislative framework, charitable purposes must be expanded and modernized. CCIC and its members would support, for example, the inclusion of purposes related to advancing human rights, preventing poverty, and advancing peace, among others, all which are in line with current conceptions of sustainable development and lasting solutions to pressing global challenges.

The need to modernize the definition of charity is demonstrated by the case of Oxfam Canada, which attempted to update its own charitable purposes to reflect current needs and international development practice in 2012. After a lengthy and costly exchange, CRA denied Oxfam Canada's proposal to include the prevention of poverty among at-risk individuals as part of its organizational objectives (*see* Case study below).

“ The laws around what charitable purposes are allowed is too narrow. Those working on poverty prevention, human rights-related causes, and peace and security issues are hamstrung by outdated laws and regulations. ”
-CCIC member

CASE STUDY V— THE RISK OF LOSING CHARITABLE STATUS BECAUSE OF “CHARITABLE PURPOSE”

In July 2012, Oxfam Canada filed Articles of Continuance to CRA as part of the process of governance reform in preparation for the transition to the new Not-for-Profit Corporations Act scheduled to take effect in October 2014. Oxfam described one of its charitable purposes "to prevent and relieve poverty, vulnerability and suffering by improving the conditions of individuals whose lives, livelihood, security or well-being are at risk."

In April 2013, 8 months after the papers were filed, CRA responded. Among the concerns cited by CRA, Oxfam was informed that “preventing poverty” was not a charitable goal because it could mean providing for a group of individuals that may not actually be in need. “Relieving” or “alleviating” poverty is

considered charitable because the purpose is to provide for those in need.

Oxfam's exchange with the CRA lasted for almost a year. The charity estimates that it used over a hundred hours of staff time and spent over \$30,000 in legal fees to avoid losing its charitable status. This technical dispute also resulted in press coverage and confusion among the public and donors about the nature of the dispute and Oxfam's status as a charitable organization. After 10 months and frequent correspondence with CRA, the Articles of Continuance were issued with amendments to Oxfam Canada's charitable purpose removing the word "preventing" from the articles.

B. REVISE ‘CHARITIES OWN ACTIVITIES’

The financial and technical support provided by Canadian charities to developing country organizations is key to the Canadian international development sector’s success in advancing poverty reduction, sustainable development, and human rights around the world. CRA’s current guidance that interprets a charity’s ‘own activities’ as ones in which it maintains total ‘direction and control’ creates considerable barriers to the enactment of respectful, effective partnerships and promoting local ownership, which are a best practice in international development, recognized in several international agreements.

Reforming the charity laws, or, at minimum, revising the current guidance on ‘own activities’, is urgently needed. CCIC and members are highly committed to the accountability of the sector and their organizations. CCIC recommends that, instead of the current complex and administratively burdensome documentation requirements ‘direction and control’, the guidance be revised to require simpler accountability mechanisms, such as expenditure responsibility which is exercised in other jurisdictions.

Reforming charity regulations and interpretation in this manner would also encourage charities’ participation in coalitions, which play an important function in the non-profit and charitable sector for promoting best practices, increasing efficiency, doing collective research and policy work, and achieving human development goals.

IN ORDER TO ENSURE CANADIAN CHARITIES ARE ENACTING DUE DILIGENCE AND EVALUATION IN THEIR PARTNERSHIPS WITH NON QUALIFIED DONEES, MECHANISMS MUST INCLUDE:

- Expenditure reporting / responsibility
- Keeping records of partnership agreements
- Proportionate monitoring and evaluation

C. SUPPORT CHARITIES' CAPACITY TO ENGAGE IN PUBLIC POLICY PROCESSES THROUGH REVISED RULES

Participating in non-partisan public debate and policy development is a crucial aspect of Canadian international development organizations' ability to fulfill their purposes and missions, including supporting partner organizations in the Global South to engage in public policy activities in their countries. CCIC and most members agree that it is necessary to revise the rules, rather than just the interpretation and guidance, to better support the public policy role of Canadian charities. According to the "political activities survey", **98.5% of international development organizations would like to see changes to the rules governing 'political activities'**. Restrictions on charities should not impede their capacity to influence policy processes, including with respect to the capacity of other sectors (like the private sector).

“ ‘Direction and control’ combined with ‘political activity’ rules means that we are supposed to dictate to our counterparts how they should or should not interact in their own democratic process. This is antithetical to the *Paris Declaration*, the *Aid Effectiveness Agenda*, the *SDGs*, and *CCICs Code of Ethics*. ”
-CCIC member

A THOROUGH AND EFFECTIVE REVISION OF THE LEGISLATION AND RULES RELATED TO CHARITIES' PUBLIC POLICY ACTIVITIES MUST INCLUDE THE FOLLOWING ELEMENTS:

- **Redefined permissible public policy activities**

The distinction between 'political' and 'charitable' public policy activities does not reflect common understandings of the terms. Furthermore, the distinction does not reflect the need for multiple types of policy activities in order to advance charities' purposes and contribute to the public good, in Canada and in developing countries. CCIC and members would like to see the development of a new legal framework re-assessing whether the distinction between 'political' and 'charitable' public policy activities is needed at all.

- **Reduced limits on policy related activities**

The 10% ceiling on 'political activities' does not appear to have a logical basis. CCIC and members would like the development of a new legal framework to consider eliminating limits on non-partisan public policy activities by charities. As we look forward to the next decades, we are convinced that charities will be required to do more 'political activities' to be effective in achieving the ambitious domestic and global agendas. Therefore, we need a 21st century regulatory framework that enables, and not limits, this important work.

- **Simpler reporting**

Current requirements to track resources dedicated to 'political' activities are onerous and do not appear to have a proportionate public benefit. Instead, simple and effective accountability mechanisms must be developed, such as the one currently used in the United States which requires expenditure reporting and where the onus is on proving that the funds from a charity are used to further its charitable purposes and not that it 'directed and controlled' all activities.

- **More transparent audit processes**

A disproportionate number of international development charities have been audited since 2010 by CRA. There also does not appear to be a uniform and objective application of the rules by auditors. Some audits extend over long periods of time (multiple years) and others seem to never arrive at full closure. The lack of clarity about the audit process is affecting charities' willingness to contribute to public policy processes. In a new legislative framework, the reasons and parameters for audits should be outlined clearly, as should the audit process. The following actions by CRA would greatly improve the process: convey the reason for an audit immediately to the charity; share clear examples of what practices lead to education letters, compliance agreements, sanctions, and notices of revocation; review recent audits and appeals and identify how the process could be streamlined (Imagine Canada 2016).

D. CLARIFY 'PARTISAN ACTIVITIES'

Partisan activity should remain excluded from the work of charities. (Though, the question arises of why charities should be the only organizations barred from supporting political parties). The new legislative framework could allow any non-partisan public policy activities by charities if it supports their charitable purpose. However, there is a need to further clarify partisan activities so that they are in line with, and not in excess of, Elections Canada definitions and restrictions. For example, the definition of partisan activity should make it clear that charities can take a position on an issue or policy related to their charitable purposes, regardless of whether a political party or candidate for public office has also done so.

SECTION III

KEY RECOMMENDATIONS



I. CREATE A NEW LEGISLATIVE FRAMEWORK FOR CHARITIES



II. SUPPORT CHARITIES' CAPACITY TO ENGAGE IN PUBLIC POLICY PROCESSES



III. REFORM DIRECTION & CONTROL REQUIREMENTS THAT POSE BARRIERS TO CHARITIES' PUBLIC POLICY WORK



IV. REMOVE LIMITS TO "POLITICAL ACTIVITIES" TO ALLOW CHARITIES' FULL CONTRIBUTION TO PUBLIC DEBATE



V. CLARIFY THE EXISTING RULES AND PROVIDE BETTER GUIDANCE TO CHARITIES



I. CREATE A NEW LEGISLATIVE FRAMEWORK FOR CHARITIES

In the mandate letters to the Minister of National Revenue, the Minister of Finance, and the Minister of Justice and Crown Attorney, the Canadian federal government made a commitment to develop a new legislative framework to strengthen the non-profit and charitable sectors. CCIC welcomes and agrees with the Ministers' mandates to modernize the regulatory and legal frameworks under which charities and non-profits operate. The mandate letters are worth quoting at length:

To the Minister of National Revenue:

“Allow charities to do their work on behalf of Canadians free from political harassment, and modernize the rules governing the charitable and not-for-profit sectors, working with the Minister of Finance. This will include clarifying the rules governing “political activity,” with an understanding that charities make an important contribution to public debate and public policy. **A new legislative framework to strengthen the sector will emerge from this process.**” - Rt. Hon. Justin Trudeau

To the Minister of Finance:

“Work with the Minister of National Revenue to allow charities to do their work on behalf of Canadians free from political harassment, and modernize the rules governing the charitable and non-for-profit sectors. This will include clarifying the rules governing “political activity,” with an understanding that charities make an important contribution to public debate and public policy. **A new legislative framework to strengthen the sector will emerge from this process.**” - Rt. Hon. Justin Trudeau

To the Minister of Justice and Crown Attorney:

“Work with the Ministers of Finance and National Revenue to develop a modernized regulatory and legal framework governing the Charitable and Not-for-Profit sectors.” - Rt. Hon. Justin Trudeau

TO BETTER ENABLE THE CHARITABLE AND NON-PROFIT SECTORS TO ACHIEVE ITS PUBLIC BENEFITS, THE GOVERNMENT OF CANADA MUST:

- Reform the Income Tax Act
- Undertake a comprehensive, consultative reform process to create a regulatory and legal framework
- Ensure adequate timelines and funding for coalitions and umbrella organizations to carry out participatory and meaningful consultations with non-profits and charities during the reform process.

CCIC is in strong support of the Ministers' mandate to modernize the regulatory and legal frameworks under which charities and non-profits operate. Legislation needs to enable and strengthen the role that Canada wants its non-profit and charitable sector to fulfill in society – *form must follow function*. If there is agreement, as the Canada Revenue Agency has stated in this consultation, that charities play a “critical role in our society” and “make a valuable contribution to public policy”, then policies need to be adjusted to allow organizations to fulfill this role fully and without undue constraints. CCIC's consultation with international development organizations has revealed that, currently, the form does not follow function. The existing Income Tax Act and CRA's interpretation of the Act hinder rather than support the vital and active role of charitable organizations in international development and humanitarian assistance and in Canadian policy debates.

As Canada enters the 150th year of Confederation, and in the context of the ambitious and transformative new Agenda 2030 to end global poverty, updating and modernizing the rules governing non-profits and charities will make a lasting contribution to the strength of this sector in creating a peaceful, just, and prosperous society, in Canada and in countries of the Global South. As Canada positions itself to be a global leader, it needs a new legislative framework for the 21st century that addresses a series of issues including expanded charitable purposes, re-defining a charity's 'own activities' and revising rules and restrictions on public policy-related activities.

Modern understanding of social change and social justice is significantly different than the one that was predominant when our laws and regulations were established. The notion of 'charity' as a means to alleviate the effects of poverty, which often focused on service delivery, has been proven to be insufficient to address the root causes of persistent discrimination that leads to poverty and exclusion. Today, Canadian charities, whether working in Canada or abroad, are expected to address structural causes of social ills, not just to provide temporary relief. And addressing root causes is inextricably linked to affecting policy, laws and rules. A modern regulatory framework for Canadian charities, for the coming decades, should unequivocally encourage and support their engagement in public policy debates and processes, instead of limiting and restricting it. This requires legislative change; tweaking or clarifying current rules will not take us far enough.

“ For us, the issue is not improving the guidelines, it is changing the content of the law to reflect the reality of 2016 and not 1876. The law needs to be adapted to a global world, not the world of 150 years ago. ”
-CCIC member

CCIC recognizes that a comprehensive reform process will take time and that there must be extensive consultation with stakeholders in the sector. There is a high level of willingness and commitment on the part of charities in the international development field to participate in the development of a new legal and regulatory framework. It will be important for the federal government to involve charitable sector representatives in designing the consultation process, as well as provide sufficient funding to allow leadership organizations in the sector to engage non-profits and charities across Canada.



B. SUPPORT CHARITIES' CAPACITY TO ENGAGE IN PUBLIC POLICY PROCESSES

CCIC agrees with the CRA's characterization of the role of charities as important contributors to public policy processes, as stated in the introduction to the present consultation:

"Charities play a critical role in our society. They make a valuable contribution to public policy and public debate for all Canadians. To help charities continue this important work, they must be assured they are operating in a regulatory environment that respects and encourages their contribution."

- Canada Revenue Agency

The international development sector recognizes that charities are not just service providers but also important public policy actors. Increasingly, Canadian charities focused on humanitarian assistance and development in the Global South are working to address the causes of poverty and injustice, which inevitably requires public policy interventions.

CCIC has identified a lack of consistency among the approaches of Global Affairs Canada (GAC), Canada's international commitments, and CRA's restrictions placed on charities working to fulfill those commitments. CCIC and its member organizations are currently active participants in GAC's International Assistance Review (IAR). The IAR marks a shift in the focus of Canada's international development policy from poverty alleviation to tackling the structural causes of poverty and inequality, and underscores the importance of a human rights-based approach to international development and humanitarian assistance.

In addition, GAC's *International Development and Humanitarian Assistance Civil Society Partnership Policy* acknowledges that civil society organizations, including charities "are important partners in promoting community-government engagement and transformative change, particularly through their work to increase the involvement of individuals in the decision-making processes that affect their lives, and to empower poor and marginalized people and communities."

GAC's priorities as well as its commitment to support sustainable change in some of the world's poorest and fragile regions encourages Canadian charities to increase, not limit, their engagement in public policy activities. GAC's priorities would be supported by revised policies that place less restrictions on charities' public policy work to create a more enabling environment.

CCIC and members agree that laws and regulations governing charities, including those related to public policy activities, need to be changed in order to enable Canadian organizations to realize their full role in preventing and ending poverty and promoting human rights at home and in developing countries.



C. REFORM 'DIRECTION AND CONTROL' REQUIREMENTS THAT POSE BARRIERS TO CHARITIES' PUBLIC POLICY WORK

For charities in the international development sector, the full impact of 'political activity' rules cannot be understood without also examining the impact of CRA regulations related to 'direction and control'.

In order to reduce poverty and uphold human rights in developing countries, Canadian charities work in close partnership with organizations in the Global South, who are not 'qualified donees'. Global Affairs Canada's *International Development and Humanitarian Assistance Civil Society Partnership Policy* acknowledges and supports the fact that Canadian international development and humanitarian assistance organizations "play an important role as trusted partners in Canada's official development cooperation program by implementing development and humanitarian assistance programs, often in support of CSOs in developing countries".

There is overwhelming international recognition that local ownership by and equitable partnerships with communities and civil society organizations in the Global South are an essential element in effective international development, as confirmed by international agreements such as the *Busan Partnership for Effective Development Cooperation*, *The Istanbul Principles for Development Effectiveness* and *Transforming our World: The 2030 Agenda for Sustainable Development*.

The financial and technical support provided by Canadian charities to developing country organizations, as well as their respect for the leadership and independence of local organizations, are essential to the impact of the Canadian international development sector on poverty reduction, sustainable development, and human rights. CRA's current guidance that defines charity's 'own activities' as requiring 'direction and control' creates considerable barriers to the enactment of respectful, empowering and equitable partnerships. These partnerships are a vital element of effective and sustainable international development practice. According to the "political activities survey", **83% believe Canadian registered charities should be able to provide financial support to civil society orgs in developing countries that are working to change laws and policies that block social justice and improvements in human well-being.**

CCIC members are highly committed to the accountability of their sector and their organizations. However, the guidance that defines a charity's 'own activities' is disproportionate, administratively burdensome and contradicts good development practice. CCIC and its members support a revision and modernization of the concept of 'own activities' to allow for granting to unqualified donees to be considered a charitable activity, while developing simpler accountability mechanisms that ensure Canadian charities are enacting due diligence and evaluation in their partnerships with organizations that are not qualified donees. Suitable mechanisms could include: expenditure reporting, keeping records of partnership agreements and proportionate monitoring and evaluation.

“ The current charity regulation framework is flawed, both on 'political activity' and on the 'direction and control' requirements which makes us pretend that we know all the answers, and our Southern partners are not partners but agents to be directed and controlled. ”
- CCIC member

Reforming charity regulations and interpretation in this manner would reinforce the considerable work Canadian international development charities undertake to create and maintain equitable, effective partnerships with developing country organizations. In addition, reforming the 'direction and control' requirements would allow Canadian charities to better support organizations that advocate for human rights policies and democratic governance in developing countries. Global Affairs Canada has recognized the importance of strengthening the role of civil society organizations in the global South, which includes public policy efforts by these organizations.

“Canada's support for an enabling environment for civil society in developing countries helps ensure that CSOs can function effectively and independently in ways that complement the efforts of governments, the private sector, and multilateral organizations.”

- Global Affairs Canada



D. REMOVE LIMITS TO ‘POLITICAL ACTIVITIES’ TO ALLOW CHARITIES’ FULL CONTRIBUTION TO PUBLIC DEBATE

As the CRA has stated in this consultation, Canadian charities “make a valuable contribution to public policy and public debate for all Canadians”. Charitable organizations in the international development and humanitarian assistance sector possess a high level of expertise on the effects of Canadian government laws and policies on the wellbeing of vulnerable populations in other parts of the world.

Participating in non-partisan public debate and policy development is a crucial aspect of Canadian international development organizations’ ability to fulfill their purposes and missions. This role includes supporting partner organizations in the Global South to engage in public policy activities in their own countries. According to the “political activities survey”:

- **95.5% believe it is important that charities issue calls to action to engage Canadians in public policy debates that address issues of global social justice, humanitarian assistance and sustainable development**
- **79% believe that social justice and improvements in the well-being of poor and marginalized people in developing countries cannot be accomplished without any changes in the laws and policies in those countries**
- **91% believe that civil society organizations in developing countries should be able to work to change laws and policies that stand in the way of social justice and improvements in human well-being**
- **79% believe that laws and policies in Canada need to change so that social justice & improvements in the well-being of poor and marginalized people in developing countries can be achieved**

The reduction and elimination of poverty requires that civil society organizations in developing countries engage with their domestic laws and policies, particularly in countries where the rule of law is weak or inconsistently applied. Policies and legislation in countries in the Global South often accord fewer human rights and lower environmental standards than Canadians enjoy. When Canadian charitable organizations' support is used for public policy activities by developing country partners, often they are working to promote rights enshrined in international conventions signed by Canada. These rights include gender equality, child protection, food security, and the wellbeing of Indigenous peoples.

“Reducing poverty is about increasing the democratic accountability of government to their communities, specifically in basic service provision, such as health care and education.”
- CCIC member

Encouraging Canadian organizations and their partners in the Global South to be active in public policy activities helps advance Canada's international assistance goals including gender equality, safe and secure futures for children and youth, advancing democracy and strengthening governance.

Currently the rules regarding 'political activity', combined with requirements on 'direction and control', restrict Canadian organizations' ability to assist their southern partners who are working to improve their domestic policies, often toward Canadian levels. The restrictions are caused by:

- The complexity of the regulations and guidance
- The lack of accord between the term and interpretation of 'political activity' and the practice of public policy work by charities
- Risk aversion exacerbated by the audits program enacted over the last several years by CRA
- Risk aversion on the part of philanthropic donors and foundations who want to give to international development charities but are unsure of charity regulations or want to avoid a CRA audit
- The difficulty getting southern partners to understand, agree with and devote resources to comply with documentation requirements of CRA related to 'political activity' and 'direction and control'

For these reasons, it is essential that restrictions on 'political activities' be removed so that charities can contribute fully to sustainable development in the 21st century.



E. CLARIFY THE EXISTING RULES AND PROVIDE BETTER GUIDANCE TO CHARITIES

CCIC's consultation with international development and humanitarian assistance organizations across Canada made it clear that there is an urgent need for comprehensive new laws and regulations to create an environment supportive of charities' work towards their purposes and missions. In the meantime, suggestions for short term improvement to current regulations and interpretation are offered.

By clarifying existing rules and providing clearer guidance on political activity in the immediate term, the CRA could reduce the risk for charities to engage in public policy activities. Suggested improvements to the guidance include:

- Using clearer definitions
- Providing more relevant and sector-specific examples
- Providing clear advice upon request
- Making audits more transparent, and
- Simplifying tracking and documentation requirements

Although these measures would make the current rules more manageable in the immediate term, they would not obviate the need to refresh and modernize charity regulation in the near future.

Figure 6—CCIC members' concerns about CRA rules on 'political activities'



CONCLUSION

For charities working in humanitarian assistance and international cooperation, their involvement in public policy activities, both domestically and abroad, is essential to meeting Canada's long-term development goals around the world. The reduction and elimination of poverty requires that civil society organizations in developing countries engage with their domestic laws and policies, and Canadian charities play an important role supporting such advocacy. Current regulations contradict best practices in international development and hinder Canadian international charities advocating for their causes and the people they serve. Furthermore, the priorities of Global Affairs Canada, as well as GAC's commitment to support sustainable change in some of the world's most poor and fragile regions, encourages Canadian charities to increase, not limit, their engagement in public policy activities.

Canada has an opportunity, as it commemorates its 150th year of Confederation, to ensure that non-profits and charities contribute fully to creating a fairer, more sustainable and safer world. CCIC's consultation with international development and humanitarian assistance organizations across Canada made it clear that there is an urgent need for comprehensive new laws and regulations to create an environment supportive of charities' work towards their missions.

A new legislative framework must support charities' capacity to engage in public policy processes by removing limits on public policy-related activities, redefining permissible public policy activities, and simplifying reporting on such activity. In addition, it is essential that a new framework modernize charitable purposes to allow for the prevention of poverty and the promotion of human rights, as well as revise the definition and interpretation of "charity's own activities" and simplify reporting and accountability mechanisms when funds are transferred to partner organizations.

The federal government and the Canada Revenue Agency have shown leadership in holding this consultation on charities' 'political activity' and committing to develop a new legislative framework to strengthen the non-profit and charitable sector. CCIC and other charities are committed to participating actively and collaboratively in the effort to update and improve the legislative framework. This participation is, in fact, one form of contribution to public policy processes. Revising political activity rules will enable charities to contribute more effectively to public policy dialogue and development. Improving the overall regulatory and accountability framework will support Canadian international development charities to help end global poverty and promote social justice and human dignity for all.



CANADA'S COALITION TO END GLOBAL POVERTY
ENSEMBLE POUR ÉLIMINER LA PAUVRETÉ DANS LE MONDE