

INSTITUTE *for* MEDIA, POLICY *and* CIVIL SOCIETY

LET CHARITIES SPEAK

REPORT OF THE CHARITIES
AND ADVOCACY DIALOGUE



IN ASSOCIATION WITH



Canadian Centre for Philanthropy™
Le Centre canadien de philanthropie MC

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AND ADVOCACY DIALOGUE

MARCH 2002



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Here are the faces of some of the 700+ people who gathered in the fall of 2001 to talk about charities and advocacy. They came from large and small groups, some with, and some without charitable status, with highly varied missions. They met in 14 cities from sea to sea and in two territories. Their willingness, work and wisdom created this report. We thank them all.

THE ISSUE AND PROJECT BACKGROUND

Canada’s charities are limited in their ability to participate in public policy debate or to advocate for changes to legislation, regulations, or government policy. Activities of this kind may be deemed “political” by the Canada Customs and Revenue Agency (CCRA), which interprets the common law and the federal *Income Tax Act* and applies them to charities. The CCRA enforces a “10 Percent Rule” which forbids charities from using any more than 10 percent of their resources annually for “political activity,” which is how they categorize advocacy.

This limit on charities has been recognized by many as a serious impediment to modern Canadian democracy, for it limits the voices of charities and the people they serve, very often the most vulnerable members of society. It has also been criticized for lacking a valid and principled justification. Finally, from an administrative perspective, this restriction is widely condemned because it is fraught with imprecision and subjectivity that create confusion.

For these reasons, IMPACS – the Institute for Media, Policy and Civil Society and the Canadian Centre for Philanthropy (CCP) have chosen to lead an effort to achieve reform in this field. To this end, IMPACS commissioned the writing and wide distribution of an accessible overview of the law entitled *The Law of Advocacy by Charitable Organizations – The Case for Change*,¹ and a document entitled *Options for Change*² which addresses four possible approaches to reform in this field.

THE NATIONAL DIALOGUE

In the late summer and fall of 2001, IMPACS launched the National Dialogue on Charities and Advocacy – a cross-Canada consultation process with voluntary sector leaders on this subject. It consisted of 17 day-long consultation sessions in the following cities: St John’s, Halifax, Fredericton, Montreal, Ottawa, Toronto (4 sessions), Winnipeg, Saskatoon, Edmonton, Calgary, Vancouver, Victoria, Yellowknife, and Whitehorse.

The purposes of the consultation sessions were: 1) to educate participants on the law; 2) to determine whether participants view the current law as a problem; and 3) to seek their guidance on the best option or options for reform.

A national reference group of interested local and national organizations was established to help design and promote the process. Each session was hosted and promoted by a locally-based organization, with notices of sessions distributed broadly through charity and non-profit organization networks. (See Appendix A for lists of the national reference group members and the local hosts.)

The consultation sessions were attended by 704 people, most of whom were voluntary sector representatives from a mix of large and small, urban and rural, charitable and non-profit organizations. Some federal and provincial government officials also attended, predominantly from departments with granting programs.

During the sessions, a lawyer retained by IMPACS provided an overview of Canadian law in this field and a summary of relevant developments in Australia and Scotland, where major commissions have recently examined charity law, including the law of advocacy. (See Appendix B for descriptions of, and excerpts from, the Australian and Scottish commission reports.) The treatment of the issue by the Charity Commission for England and Wales was considered as well.

The sessions also included discussion of the positions used to defend the status quo. Concerns expressed included:

- the notion that advocacy by charities infringes upon the roles of political parties and members of parliament or legislative assemblies;
- the concern that greater latitude for charities to advocate may have serious implications for government tax revenue;³
- the “Pandora’s Box” argument that opening this field to reform could result in more restrictive treatment of charities;⁴ and
- the “painting with grey” argument that the imprecision of the status quo creates opportunities.

The sessions were consultative in nature. While IMPACS began the project with the view that change to the rules of advocacy was needed, it did not have a pre-determined solution, and did not attempt to direct the

participants toward a particular conclusion or option.⁵ The gathering of input and advice from participants was of primary importance.

Participants were given opportunities to ask questions and time was allotted for them to work in groups to share their experiences with the law, to consider the options for change outlined in IMPACS' materials, to propose new options or combinations

of options, and to provide advice on how to proceed.⁶

To encourage open and frank discussion, it was agreed at the outset of the sessions that comments by participants would be treated as confidential and would not be attributed to any individual or organization. Participants were free to repeat and attribute statements made by IMPACS and CCP representatives.

THE OPTIONS

IMPACS' *Options For Change* paper addresses four options, while a fifth option is detailed in "*The Case For Change*" paper cited above.⁷ Briefly, they were:

OPTION 1 - CLEARLY IDENTIFY WHAT CHARITIES CANNOT DO

This option is based on the view that much of the difficulty in this field arises from the confusion in the language used in the case law, the *Income Tax Act*, and the CCRA's interpretative materials. "Partisan politics," "political purposes," "political activity," and "advocacy" are used in ways that confuse rather than clarify.

This option would involve an amendment to the *Income Tax Act* to clearly identify activities that are prohibited for charities. This list would be very modest, and consist of:

- partisan politics (i.e. direct or indirect support of, or opposition to, any political party or candidate for public office);
- illegal activities; and,
- activities beyond the powers of the organization.

The prohibition of partisan politics is based on the principle that the independence of charities from party politics and government is a critical value to protect, a value recognized in the Australian and Scottish reports.⁸ The second and third prohibitions are self-evident and arise from application of the current law. Restating

them in such an amendment is optional.

With this approach, charities would be free to engage in advocacy to advance their charitable purposes. How much advocacy a charity undertakes would be left to the organization to decide.⁹

OPTION 2 - BROADEN THE DEFINITION OF EDUCATION

The advancement of education is one of the four common law categories of charity. However, the line between charitable "education" and political "advocacy" has been the source of confusion.

This option would involve expansion of the definition of education to expressly include reasoned arguments on public policy issues. This would allow charities greater latitude in advancing educational purposes, but would not allow greater advocacy by charities that do not engage in educational activities.

OPTION 3 - CREATE A NEW CATEGORY OF TAX EXEMPT ORGANIZATION

This option is based on the conclusion of Professor Kernaghan Webb,¹⁰ who proposes amendments to the *Income Tax Act* to allow for the creation of a new category of organization called "registered interest organizations" or RIOs. Webb proposes that RIOs:

- be exempt from taxation;
- be registered;

- have an unrestricted ability to engage in political activities; and
- be able to issue tax receipts.

The tax treatment of donations to RIOs could be the same as, more favourable than, or less favourable than the tax treatment of donations to charities.

OPTION 4 – CREATE A NEW LEGISLATIVE DEFINITION OF “CHARITY”

This option is based on the view that the definition of charity is badly dated, and that modernization through legislation is needed. This view, often expressed by judges and others working with the current law, is consistent with the recommendations of the 1999 Broadbent Panel Report.

This approach would require an in-depth national debate on the meaning of charity, means of fostering charity, the role of the voluntary sector, and a host of related and challenging issues. This option assumes that a new definition would include recognition of the legitimacy of advocacy by charities. This is viewed as a long-term undertaking, likely taking several years. The recent Australian and Scottish Commissions may provide models for such an undertaking.

OPTION 5 – THE AMERICAN MODEL

This option is addressed at length beginning at page 19 of *The Law of Advocacy by Charitable Organizations – The Case for Change*. Americans have grappled with the issue of advocacy or, in their terms, “lobbying” by charities and have devised an approach with two main features: clear definitions of allowable lobbying by charities, and a formula of quantitative limits on lobbying (a 20% rule with a sliding scale and a maximum expenditure limit for large charities of \$1 million annually).

This approach has created greater clarity, but has been criticized as complex,

administratively difficult to comply with, and unduly restrictive.

OTHER OPTIONS

Participants in the dialogue sessions were invited to propose additional options and they did so.

THE FREDERICTON OPTION – A “FAIRNESS AUDIT” (OPTION 6)

In Fredericton, some participants expressed concern that the Charities Directorate in the CCRA was not interpreting and administering the law in a fair and consistent manner. Concerns included a lack of transparency in decision-making, the absence of a proper appeal process, inconsistent answers to queries, unclear audit standards, inflexible remedial options, and inadequate guidance to charities and applicants for charitable status.

These concerns led to a proposal by the Fredericton participants that a “fairness audit” of the Charities Directorate’s operations be conducted by the Auditor General of Canada or other credible outside party. The goal of the audit would be to determine whether the Charities Directorate is applying the principles of administrative fairness in its dealings with charities and applicants. The hope was that the audit would result in organizational and procedural changes that would improve the performance of the office and the relationship between the parties in this field.

Most participants viewed this option as complementary to other options, while some thought it would be sufficient on its own.

This option was presented at all of the consultations that followed the Fredericton session. It is included in the survey data as option 6.

THE SASKATOON OPTION – AN ADVOCACY CODE OF ETHICS

Participants in Saskatoon presented another option that could operate in conjunction with

increased latitude for advocacy by charities. They proposed the establishment of an Advocacy Code of Ethics - a voluntary Code containing standards and expectations for responsible and ethical advocacy by charities. This could include disclosure requirements to ensure greater transparency and accountability for charities regarding advocacy activities. The Code could be managed by the Canadian Centre for Philanthropy or other organization, and would communicate to the public the sector's commitment to ethical practices.

This option was presented at the sessions held west and north of Saskatoon.

A VANCOUVER OPTION – A NEW CLASS OF “SMALL CHARITABLE ORGANIZATION”

At the Vancouver session, David Mossop Q.C., a lawyer with charity law experience, suggested a twofold reform consisting of legislative definition of political activity and creation of a new class or category of organization.¹¹ This option was not endorsed by the Vancouver session and was not presented as part of the subsequent three sessions. It was not part of the survey.

THE SURVEY

Participants in 16 of the consultation sessions were asked to complete a written survey.¹² The survey data quantify the views of participants on the issue of advocacy by charities. A total of 490 responses were received. The survey findings are summarized in Appendix D.

AN ADDITIONAL QUESTION TO PARTICIPANTS

An important issue arose from the description of Option 1 found in the *Options For Change* paper. That description is not sufficiently precise and can be interpreted in two different ways.

INTERPRETATION 1A:

One interpretation is that charities should face no restrictions on the amount of advocacy they do to advance their charitable purposes (e.g. advancement of education, advancement of religion, relief of poverty, other purposes beneficial to the community). It would be left up to the boards of charities to decide how much advocacy is appropriate to advance their purposes at any given time. If a charity's board chose to devote all of its resources to advocacy to advance its purposes, its charitable status would not be at risk.

With this approach, engaging in advocacy to advance charitable purposes would be sufficient to qualify or maintain charitable status. Advocacy of this kind would, in effect, become a charitable activity.

INTERPRETATION 1B:

Another interpretation of Option 1 is that advocacy should not become a charity's dominant activity, but should always be "ancillary" to the delivery of charitable services. With this approach, advocacy would not be undertaken as an end in itself. Advocacy would be a legitimate tool for charities to use, but not itself a charitable activity. Advocacy could not become the *raison d'être* for charities.

Pursuing this approach would have the effect of limiting charities to using less than half of their resources for advocacy. The present "10 Percent Rule" would become an "up to 49 Percent Rule." This could be administered over a rolling multi-year period to provide charities with greater flexibility.

This second narrower interpretation is very similar to the approach now taken in England and Wales and to the approach recommended for Scotland and Australia.

While there was discussion of each of these interpretations during many of the sessions, the issue of which interpretation was preferred by participants was not fully addressed or resolved during the sessions. Nor did the survey capture data on participant views on the point. As a result, the views of participants on this point are not clear.

To obtain guidance on this issue, participants were provided with a draft of this report, and expressly asked to indicate which interpretation of Option 1 they

preferred. A total of 102 participants responded to this question. Forty-five of them expressed preference for interpretation 1a, and fifty-seven preferred interpretation 1b. These results are not conclusive as to which interpretation is favoured. Instead, they indicate substantial support for both.

SESSION FEEDBACK AND SURVEY RESULTS - PRIMARY FINDINGS

The feedback from the dialogue sessions and the survey results lead to the following conclusions:

- 1) Ninety-one percent of survey respondents were of the view that the status quo is not acceptable, and that the law of advocacy by charities must change.
- 2) Eighty-seven percent of respondents agreed that legislative change (as opposed to judicial challenge) is the best way to bring about reform of the law.
- 3) While there was not a unanimous agreement as to the best option or options for change, a strong majority of participants supported a combination of options, with both short-term and long-term elements:
 - In the short-term, the majority preferred Option 1 – to amend the *Income Tax Act* to clearly identify what charities cannot do. As to what should be prohibited, it was agreed that charities should not be able to engage in partisan politics. As described in more detail above, many participants supported the removal of all limitations on advocacy. Others preferred that advocacy remain ancillary to charitable activities, and not consume more than 49 percent of a charity’s resources.
 - Also in the short-term, the majority supported the Fredericton Option¹³ –

completion of a “fairness audit” by the Auditor General of Canada, or other credible outside party, of the operations of the Charities Directorate.

- In the long-term, the majority of participants supported Option 4 – the creation of a new, modern legislative definition of “charity” to replace the existing and badly dated common law categories of charities.

SECONDARY FINDINGS

The feedback and survey produced a number of other important findings, including:

- 1) Strong support was expressed for the creation of a Canadian Charity Commission based on the model in England and Wales. This was viewed as a means of separating the regulation and support of charities from the tax collection function and a means of developing specialized administrative practices.
- 2) Many participants were concerned about the impracticality and expense of appealing decisions of the Charities Directorate at CCRA to the Federal Court of Appeal. Some raised the idea of a Charity Ombudsman to serve in a quasi-judicial capacity and to hear complaints and appeals. A variation on this theme was a suggestion that a monitoring body with representation from the voluntary sector be established to hear appeals of decisions and to review the operations of the Charities Directorate.
- 3) Many participants endorsed increased public disclosure requirements for charities regarding their advocacy activities to increase accountability to the public.
- 4) Many participants supported the creation, by the charitable sector, of an advocacy code of ethics.

CONCLUSIONS

The National Dialogue revealed a deeply felt desire among voluntary sector organizations for change in this field. There is agreement across the country that the current restriction on advocacy by charities is an anachronism. If the restriction ever had validity and meaning, there is very strong opinion now that it has no place in modern Canada, for it is an impediment to democracy where informed and unfettered debate is essential.

There is also strong support for high standards of disclosure, transparency, and accountability to ensure virtuous practices by charities.

The direction for the Project from the National Dialogue can be summarized this way:

1. Advance Option 1 by seeking clarification of prohibited activities and an increase in the quantitative limits on non-partisan advocacy by charities to allow up to 100 percent advocacy (interpretation 1a), or the creation of an up to 49 percent rule (interpretation 1b). In either case, organizations should be obliged to report publicly on how much of their resources are used for advocacy.
2. Initiate the development of an advocacy code of ethics.
3. Pursue a process with government to create a new legislated definition of “charity.”
4. Support the creation of a Canadian Charity Commission, or, as an alternative, the establishment of some form of monitoring or Ombudsman function to oversee the administration of charities.
5. Make a formal request of the Auditor General of Canada to conduct a “fairness audit” of the Charities Directorate of the CCRA.

APPENDIX A

PARTICIPANTS AND SUPPORTERS

NATIONAL DIALOGUE ON CHARITIES AND ADVOCACY REFERENCE GROUP MEMBERS

Richard Bridge, Legal Counsel
Bruce Clemenger
Peter Dawe, Canadian Cancer Society,
Newfoundland and Labrador
Marlene Deboisbriand, United Way/
Centraide of/de Canada
Brenda Doner, IMPACS
Bronwyn Drainie, IMPACS
David Driscoll, VanCity Community
Foundation
Debbie Field, Foodshare – Metro Toronto
Gordon Floyd, Canadian Centre for
Philanthropy
Nathan Gilbert, Laidlaw Foundation
Cyndi Harvey, Volunteer Alberta
Stephen Legault, WildCanada.net
Gary McPherson, Canadian Centre
for Social Entrepreneurship, University
of Alberta (left during 2001)
Penny Marratt, Health Charities Council
of Canada (left during 2001)
Ratna Omidvar, Maytree Foundation
Sharon Pangman, Canadian Centre for Social
Entrepreneurship, University of Alberta
Monica Patten, Community Foundations
of Canada
Laurie Rektor, Voluntary Sector Initiative
Secretariat, Advocacy Working Group

Shauna Sylvester, IMPACS
Karen Takacs, Canadian Crossroads
International
Bruce Tate, National Anti-Poverty
Organization (left during 2001)
Megan Williams, Canadian Conference
for the Arts

HOST COMMUNITIES AND HOST ORGANIZATIONS

Toronto, Ontario (ethnocultural
communities) – September 12, 2001
(Ontario Council of Agencies Serving
Immigrants)
Toronto, Ontario (grantmakers) – September
26, 2001 (Maytree Foundation/IMPACS)
St. John's, Nfld. – September 28, 2001
(Community Services Council)
Halifax, Nova Scotia – September 29,
2001 (Metro United Way – Halifax)
Fredericton, New Brunswick – October 1,
2001 (New Brunswick Environmental
Network)
Montréal, Québec – October 2, 2001
(Fédération des centres d'action bénévole
du Québec)
Toronto, Ontario (Maytree Conference
workshop) – October 2, 2001¹⁴
Ottawa, Ontario – October 3, 2001
(Volunteer Ottawa/Centre for Voluntary
Sector Research and Development)
Toronto, Ontario – October 4, 2001
(St. Christopher's House)

Winnipeg, Manitoba – October 12, 2001
(International Institute for Sustainable
Development)

Saskatoon, Saskatchewan – October 13,
2001 (Saskatchewan Council for
International Cooperation)

Edmonton, Alberta – October 16, 2001
(Grant McEwan College, Centre for Social
Entrepreneurship, Volunteer Alberta)

Calgary, Alberta – October 17, 2001
(Volunteer Calgary)

Vancouver, B.C. – October 18, 2001
(IMPACS, VanCity Community
Foundation, Vancouver Foundation)

Victoria, B.C. – October 19, 2001 (B.C.
Council for International Cooperation)

Yellowknife, N.W.T. – November 21, 2001
(YMCA Yellowknife)

Whitehorse, Yukon – November 23, 2001
(Northern Environmental Network)

OPTIONS PAPER WORKSHOP PARTICIPANTS

David Driscoll

Colleen Kelly

Laird Hunter

Margaret Mason

Richard Mulcaster

John Walker

Stuart Wulff

FINANCIAL SUPPORTERS

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Laidlaw Foundation

Social Sciences and Humanities Research
Council

Law Foundation of Ontario

Vancouver Foundation

Walter & Duncan Gordon Charitable
Foundation

Heritage Canada

GROUPS THAT ATTENDED THE 2001 DIALOGUE TOUR

Groups are listed once only, no matter how
many delegates, levels or branches of the
organization attended.

Our apologies if there are errors or
omissions. Please let us know how to correct
our list.

519 Church Street Community Centre

Access to Media Education Society

ACTEW-A Women's Training Community

Advisory Council on the Status of Women

Afghan Women's Organization

African Community Services of Peel

Agora Foundation

Atkinson Charitable Foundation

AIDS Committee of Ottawa

AIDS Vancouver

Airdrie and District Victim Assistance Society

Alberta Association for Community Living

Alberta Committee of Citizens
with Disabilities

Alberta Community Council on HIV

Alberta Council of Women's Shelters

Alberta Council on Aging

Alberta Ecotrust Foundation

Alberta Real Estate Foundation

Alberta Safety Council

Alberta Sport, Recreation, Parks & Wildlife

Alliance for Life

Alzheimer Society

Amnesty International

AMSSA

Amyotrophic Lateral Sclerosis Society (ALS)

Arthritis Society

Arusha Centre Society
 Assembly of Manitoba Chiefs
 Association for New Canadians
 Athletics NB
 Atlantic Christian Training Centre
 Atlantic Council for International Cooperation
 Aurora Institute
 Bayers Westwood Family Resource Centre
 BC Blind Sports
 BC Choral Federation
 BC Coalition for Safer Communities
 BC Health Promotion Coalition
 BC Persons With AIDS Society
 BC Public Interest Advocacy Centre
 Benoit's Cove Indian Band Council
 Big Sisters and Big Brothers of Calgary and Area
 Bissell Centre
 Borden Heritage Society
 Bow Valley College
 Boyle Street Co-op
 Boys and Girls Clubs of Canada
 Brain Tumor Foundation of Canada
 Brandon Seniors to Seniors Co-op
 Breastfeeding Committee for Canada
 Brenda Strafford Centre for the Prevention of Domestic Violence
 BYTE
 Calgary Birth Control Association
 Calgary Catholic Immigration Society
 Calgary Centre for Nonprofit Management
 Calgary Corporate Challenge
 Calgary Foundation
 Calgary Habitat for Humanity
 Calgary Healthy Start Alliance
 Calgary Inter-Faith Food Bank
 Calgary SCOPE Society
 Canadian AIDS Society (CAS)
 Canadian Association of Neighbourhood Services
 Canadian Cancer Society
 Canadian Centre for Philanthropy
 Canadian Centre for Policy Alternatives
 Canadian Conference for the Arts
 Canadian Co-operative Association/Co-op Development Foundation of Canada
 Canadian Council for International Cooperation
 Canadian Crossroads International
 Canadian Diabetes Association – Ottawa
 Canadian Environmental Grantmakers' Network
 Canadian Hard of Hearing
 Canadian Home and School Federation
 Canadian Human Rights Trust
 Canadian Jewish Congress
 Canadian Mental Health Association
 Canadian Museums Association
 Canadian Paraplegic Association
 Canadian Parents For French
 Canadian Parks and Wilderness Society
 Canadian Public Health Association
 Canadian Red Cross
 Canadian Society for International Health
 Canadian Women's Foundation
 Captain Spry Community Centre
 Career Flight
 Career Trek Inc.
 Carleton University
 CARP Canada's Association for the Fifty-Plus
 Catholic Family Service
 Canadian Centre for Social Entrepreneurship
 Cecil Community Centre
 Central Vancouver Island Multicultural Society
 Centre for Community Organizations
 Centre for Diverse Visible Cultures

Centre for Voluntary Sector Research
and Development
 CERIS
 Changing Together
 Charity Village
 Child Friendly Calgary – Youth Volunteer
Corp
 Children’s & Women’s Health Centre of BC
 Children’s Hospital Foundation of
Manitoba
 Children’s International Summer Villages
 Children’s Link Society
 Chinook Country Historical Society
 Citizen Advocacy of Ottawa
 Citizen Advocacy Society of Camrose
 Citizens for A Safe Learning Environment
 Citizens for Public Justice
 Citizenship Council of Manitoba
 City Centre Neighbourhood Association
 Canadian National Institute for the Blind
 Coalition for Lesbian and Gay Rights
in Ontario
 Coalition for Ontario Voluntary
Organizations
 Coalition on International AIDS
and Development
 College Montrose Children’s Place
 Community Education Network
 Community Foundation of Orillia and Area
 Community Health Promotion Network
Atlantic/NB Ref
 Community Legal Assistance Society
 Community Legal Education Association
 Community Loan Fund
 Community Services Council –
Newfoundland and Labrador
 Community Social Planning Council
 Community Unemployed Help Centre
 Conflict Resolution Network Canada
 Congress of Black Women – MB Chapter
 Conservation Council Of New Brunswick
 Consumer Programs – AB Gov. Services
 Consumers’ Bureau
 COSTI Immigrant Services
 Council -Advancement of Native Dev.
Officers
 Council for Canadians with Disabilities
 Council of Agencies Serving South Asians
 Council of Caribbean Organizations
 Covenant House
 CPR Yukon Society
 Cross Cancer Institute
 CultureLink Settlement Services
 CUSO
 David Suzuki Foundation
 DeGros Marsh Consulting
 Denman Island Women’s Outreach Society
 Developmental Disabilities Resource
Centre of Calgary
 Dieticians of Newfoundland and Labrador
 DisAbled Women’s Network Canada
 Dixon Hall Neighbourhood Centre
 Downtown Eastside Residents Association
 E. Preston Daycare Centre
 East Coast Trail Association
 Ecology Action Centre
 Ecology North
 Ecotrust Canada
 Edmonton Arts Council
 Edmonton City Centre Church Corp.
 Edmonton Epilepsy Association
 Edmonton Mennonite Centre for
Newcomers
 Edmonton Multicultural Society
 Edmonton Social Planning Council
 Edmonton YMCA
 Edmonton’s Food Bank
 Elder Active Recreation Association
 Employment Project Winnipeg

Environment Canada
 Environmental Mining Council of BC
 Epilepsy Association
 Evangelical Fellowship of Canada
 Faith in Action Committee, Maritime Conference
 Falls Brook Centre
 Family & Community Support Service Association of AB
 Family Caregivers Association of Nova Scotia
 Family Caregivers' Network Society
 Family Counselling & Support Services Guelph
 Family Resource Centre Coalition
 Family Service Association of Metro Toronto
 Family Services Centre of Ottawa-Carleton
 Family Services Saint John
 Family Transition Place (Dufferin)
 FCJ Hamilton House
 Feeding Calgary's Children
 FemJEPP
 Foodshare
 Fredericton Autism Centre for Education
 Gay and Lesbian Community Centre
 George Cedric Metcalf Charitable Foundation
 George Spady Centre
 Georgia Strait Alliance
 Girl Guides of Canada
 Global Village Nanaimo
 Good Companions
 Greater Victoria Child & Youth Advocacy Society
 Guelph & District Multicultural Centre
 Halifax Regional Development Agency
 Hamilton Community Foundation
 HBC Foundation
 Health Charities Council of Canada
 Heart & Stroke Foundation
 Help Line
 Hep CBC
 Hilborn Group Limited
 Hispanic Development Council
 Homeless Women's Shelter
 Homes First
 Hospice Palliative Care MB
 Hospital for Sick Children Foundation
 Housing Help
 Humber College Community Development
 Immigrant Services Society of British Columbia
 Immigration Canada
 Independent Living Resource Centre of Calgary
 Info & Volunteer Centre for Strathcona
 Institute for the Advancement of Aboriginal Women
 Inter Pares
 Intercede
 Intergovernmental Affairs, Gov't of Nfld
 International Educators for World Peace
 International Institute for Sustainable Development
 Inuit Tapirisat of Canada
 Irish Loop Regional Economic Development Board
 IYV Volunteer Centre
 J.J. Whistler Bear Society
 Jamaican Canadian Association
 Jane/Finch Community and Family Centre
 John Howard Society
 Junior League of Edmonton
 Juvenile Diabetes Foundation Canada
 Kababayan Community Centre
 Kali-Shiva AIDS Services
 Kid Save International
 Kidney Foundation of Canada
 Kids Eat Smart Foundation
 King's Daughter Dinner Wagon

Kingston & District Immigrant Services	Muriel McQueen Fergusson Foundation
Ladysmith Resources Centre Association	Muscular Dystrophy Association
Laidlaw Foundation	Museum of the Regiments
Lantern	Muttart Foundation
Latin America Management Program	Myasthenia Gravis Winnipeg Chapter
Law Foundation of Ontario	Nepean Community Resource Centre
Leadership Calgary	National Anti-Poverty Organization
Learning Disabilities Association of Canada	National Farmers Union
Lifetime Networks Ottawa	National Federation of the Blind
Living Prairie Museum	New Brunswick Association for Community Living
London Cross Cultural Learner Centre	New Brunswick Non-Profit Housing Association
Lotte & John Hecht Memorial Foundation	New Brunswick Partners in Agriculture
Lung Association of Newfoundland and Labrador	New Canadian Centre Peterborough
Lupus Society of Alberta	New Experiences for Refugee Women
Mainstay Consulting	Newfoundland and Labrador Environmental Network
Manitoba Association for Rights and Liberties	Newfoundland and Labrador Federation of School Councils
Manitoba Consumer's Bureau	Newfoundland and Labrador Human Rights Association
Manitoba Council for International Cooperation	Newfoundland and Labrador Pensioners
Manitoba Women's Advisory Council	Niagara College Canada
Maytree Foundation	Niagara Community Foundation
Mennonite Central Committee	Nightwood Theatre
Metro Food Bank Society	NOIVMWC – National Organization of Immigrant & Visible Minority Women of Canada
Metro United Way – Halifax	Non-Profit Leadership Programme – Dalhousie University
Mills Garthson & Assoc	North Shore Community Resources
Ministry of Citizenship, Culture & Recreation	Northern Environmental Network – Yukon
Ministry of Community, Aboriginal & Women's Services	Norwood Child & Family Resource Centre
Minority Citizenship and Ministry of Tourism, Culture, Recreation	NS Choral Federation
Mission Community Services	NS Cultural Network
Moncton Hepatitis C Society	NS League for Equal Opportunities
Moncton Volunteer Centre	Nuclear Free North/Canadian Peace Alliance
Mosaic	NWT Council for the Disabled
Multicultural Women's Association	NWT Literacy Council
Multi-Impact	
Multiple Sclerosis Society	

NWT Seniors Society	Project Ploughshares
Ocean Net	Prostitution Awareness & Action Foundation
Older Women's Network	Providence Centre Foundation
One Step- Skills and Development	Raven Recycling
Ontario Association of Youth Employment Centres	Refugee Immigrant Advisory
Ontario Coalition of Senior Citizens Organizations	Regina Natural History Society
Ontario Council for International Cooperation	Regional Caregiver Network
Ontario Council of Agencies Serving Immigrants	Rehabilitation Centre for Children Foundation
Ontario Feed the Children	Renfrew Educational Services
Ontario Prevention Clearinghouse	Resource Centre for Voluntary Organizations
Ontario Social Development Council	Richard Ivey Foundation
Ontario Trillium Foundation	Roma Community and Advocacy Centre
Ontario Young People's Alliance	Royal Bank of Canada Charitable Foundation
Ottawa Aboriginal Headstart Program	Rural Alternative Research and Training Society
Ottawa Rape Crisis Centre	S. Greek and Associates
Our House	S.H.A.R.P. Foundation
OXFAM Canada	Saint John Learning Exchange
Pays de Cocagne Sustainable Development Group	Saint John Volunteer Centre
Pacific Streamkeepers Federation	Saint John YM-YWCA
Parkinson's Society of Southern Alberta	Salamander Foundation
Partners for Youth Outreach	Salvation Army
PEERS	Saskatchewan Association for Community Living
PEI Association for Community Living	Saskatchewan Council for International Cooperation
Pentecostal Assemblies of Newfoundland (PAON)	Saskatchewan Division MS Society of Canada
Physicians for Global Survival	Saskatchewan Lung Association
Planned Parenthood	Saskatoon Refugee Coalition
Positive Living North West	Schizophrenia Society of AB
Poverty in Action	Schizophrenia Society, Calgary Chapter
Premier's Council on Status of Disabled Persons	Sea Change Marine Conservation Society
Primate's World Relief Fund	Second Opinion society
Progressive Intercultural Services Society PICS	Seniors Resource Centre
Project Adult Literacy Society	Sentinelles Petitcodiac Riverkeepers
Project Assistance	

Sexual Assault Centre of Edmonton	Toronto Community Foundation
Sexual Assault Services of Saskatchewan	Uncles & Aunts @ Large
Shelter Net BC Society	United Church of Canada
Sierra Club Canada	United Way & Community Services – Guelph and Wellington
Sistering	United Way of Calgary and Area
Skills for Change	United Way of Canada
Sleep Apnea Society	United Way of Greater Toronto
SMD	United Way of Greater Victoria
Social Planning and Research Council of BC (Sparc)	United Way of Peterborough & District
Social Venture Partners Calgary	United Way of Saskatoon
Society for Manitobans with Disabilities	United Way of Windsor-Essex County
Society for the Retired & Semi Retired	United Way of Winnipeg
South Asian Family Support Services	Urban Core Support Network
South Saskatchewan Community Foundation	Valleyview & District Further Education Council
South-East Deaf and Hard of Hearing Services Inc.	VanCity Community Foundation
Southeastern Aurora Development Corp.	Vancouver Bach Choir
SPARC of BC	Vancouver Foundation
St. Catharines Multicultural Centre	Victims' Voices
St. John's Citizens' Coalition	Victoria Cool Aid Society
St. Stephen's Community House	Victoria Immigrant & Refugee Society
Status of Women Canada	Voluntary Sector Management Grant MacEwan
Stepping Stone Centre	Volunteer Alberta
Street Cat Rescue Program Inc.	Volunteer BC
Student Volunteer Bureau	Volunteer Calgary
Supporting Our Youth (SOY)	Volunteer Canada
Surrey Social Futures	Volunteer Lethbridge
Sustainability Network	Volunteer Ottawa
Syme Woolner Neighborhood and Family Centre	Volunteer Vancouver
Teegatha'Oh Zheh	Volunteer Victoria
Teen Touch Manitoba	VSI Secretariat
Terra Association	Walter & Duncan Gordon Charitable Foundation
Third Age Centre	Wellness Foundation
Tides Canada Foundation	Western Canada Wilderness Committee
Times Change	Western Guide Dog Foundation
Together Against Poverty Society	Wildcanada.net
Together We Can	Wildlife Rescue Association of BC
Toronto Arts Council	

Winnipeg Film Group
 Women in Resource Development
 Committee
 Women's Centre of Calgary
 Working Women Community Centre
 World Federalists of Canada
 World University Service of Canada
 World Vision Canada
 Worton Hunter & Callaghan
 YMCA Canada
 Yukon Anti-Poverty Coalition
 Yukon Child Care Association
 Yukon Conservation Society
 Yukon Injured Workers Alliance
 Yukon Learn
 Yukon Status of Women Council
 YWCA

GROUPES FRANCOPHONES

ACAT-Canada
 Accueil Bonneau
 Fédération des organismes sans but lucratif
 de Montréal
 Action des chrétiens pour l'abolition de la
 torture
 Archevêché de Montréal
 Association de la protection du bassin
 versant de Bouctouche
 Association féminine d'éducation et
 d'action sociale
 BCJ et ROCAJ
 Bureau international des droits des enfants
 CECI
 Centraide Canada
 Centraide du Grand Montréal
 Centre de Bénévolat de la Péninsule Acadienne
 Centre de pastorale en milieu ouvrier
 Centre de santé de la Reine Elizabeth
 Coalition des médecins pour la justice sociale
 COMACO
 Comité de solidarité Sainte-Croix
 Front commun pour la justice sociale
 du Nouveau-Brunswick

Condition féminine Canada
 Confédération des organismes de
 personnes handicapées du Québec
 Corporation de développement
 communautaire Haute-Yamaska
 Corporation de développement
 communautaire de Drummondville
 CRC-Q (Comité des dons)
 Cybersolidaires
 Développement et Paix
 Épilepsie Mauricie Centre du Québec
 Fédération des dames d'Acadie
 Fédération des femmes du Québec
 Fondation Béati
 Fondation de la famille J.W. McConnell
 Fonds nord-américain pour la coopération
 environnementale
 Franklin S. Gertler, Avocats
 Front commun des personnes assistées
 sociales du Québec
 Groupe de développement durable
 du pays de Cocagne
 Institut pour la solidarité internationale
 des femmes
 Le Lien
 L'Entraide missionnaire
 Les EssentiElles
 Ligue des droits et libertés
 L'R des centres de femmes du Québec
 Option consommateurs
 Promis
 Regroupement des artistes en arts visuels
 du Québec
 Regroupement des CALACS
 Regroupement Loisirs Québec
 Regroupement national des CRE
 Réseau des femmes francophones
 du Nouveau-Brunswick
 Sentinelles Petitcodiac
 S.R.A.A.D.D / C.Q.M.
 Transport 2000 Québec

APPENDIX B

OTHER JURISDICTIONS

ADVOCACY BY CHARITIES – RECENT DEVELOPMENTS IN SCOTLAND AND AUSTRALIA

Problems related to the issue of advocacy by charities are not unique to Canada, but are shared to some degree by other common law jurisdictions, including Scotland and Australia. In both jurisdictions major charity law reviews have recently been completed. These reviews included examination of the issue of advocacy and they provided analysis and recommendations that should be of guidance to Canadians.

SCOTLAND

In April 2000, the Scottish Charity Law Review Commission was established with a broad mandate to review charity law in Scotland and make recommendations on possible reforms and modernization. The 14-person Commission spent a year reviewing the field and developing a report and recommendations. They are available at www.charityreview.com/csmr/csmr-01.htm

On the issue of advocacy by charities, the Scottish Commission concluded:

It is important that Scottish Charities contribute to public debate and we would encourage Scottish Charities to campaign on particular issues which are in fulfilment of their charitable purpose. We believe that an organisation whose purposes are charitable should be able to engage in

activities which are directed at securing or opposing changes in the law or in the policy or decisions of government, whether in this country or abroad. We recognise that the dividing line between what is proper debate related to raising key issues, and improper political activity is a difficult one to judge. We are clear that charities should not be party political organisations, but we would encourage them to contribute to public debate.

AUSTRALIA

Similarly, in September of 2000, the Prime Minister of Australia appointed the “Inquiry into the Definition of Charities and Related Organizations.” The Inquiry Committee consisted of three members: a retired judge, a leader from the voluntary sector, and a leader from the business community. The primary focus of the Inquiry Committee was to determine whether the old common law categories of “charity” should be replaced by a modern definition. Input was gathered from across Australia and a comprehensive report with a range of recommendations was published in August of 2001. Key recommendations include a new definition of charity and a new specialized administrative body. The full report is available at www.cdi.gov.au

The Inquiry Committee tackled the issue of advocacy by charities and concluded that Australia’s existing rather incoherent restrictions need to be replaced. The

Canadian 10 percent rule was considered, but a more liberal approach was preferred. The Inquiry Committee recommended:

...charities should be permitted to engage in advocacy on behalf of those they benefit....

Any non party political activities of a charity should not affect its charitable status provided it acts in good faith and its activities are not illegal or against public policy.

The Inquiry Committee has taken the position that there is an important separation that must be maintained – charity must be separate from party political or partisan political activities. The Inquiry Committee bases this separation on a principle – something missing from the current Canadian treatment of this field. The principle is preservation of the independence of charities.

Their [charities'] independence from government or any other particular political grouping is an important feature of their ability to serve their beneficiaries and to contribute more broadly to the public good.

Similar reasoning appears in the Scottish Commission Report. If implemented, the Australian recommendations would have the following practical implications:

- Established charities would be barred from engaging in partisan politics, but would be free to engage in advocacy in support of their charitable causes without a specific restriction, so long as advocacy was not the dominant activity.
- New applicants for charitable status would be prevented from having partisan political purposes, but

applicants would not be rejected if non-partisan advocacy is a purpose, so long as the dominant purposes are charitable.

This approach would give charities greater latitude to determine the best ways to advance their charitable causes than is currently the case in Canada. For example, if a charity decided that the most productive course of action was to devote 40 percent of its energies and resources to an effort to reform or retain or preserve a law or government policy, it should be free to do so.

The Inquiry Report is now with Australia's National Government. An election has just occurred and the Prime Minister who commissioned the report was re-elected. There was no indication at the time of writing whether implementing the recommendations is a priority.

CONCLUSION

There is no certainty that either of these recent and comprehensive reviews will result in changes in the law of charity Scotland in or Australia. However, on the issue of restrictions on advocacy by charities, both reports provide very credible support for the assertion that such restrictions are poor public policy. Canadians seeking changes to the laws governing our own charities should be encouraged by these findings. It is unlikely that Canada's restrictions would withstand the scrutiny of similar processes of review.

It is also important to note that both the Scottish and Australian reports contain detailed analysis and creative recommendations relating to the question of modernizing the definition of "charity." This work can provide very helpful guidance for Canada in the long-term goal of creating a new definition in this country.

KEY EXCERPTS FROM THE SCOTTISH REPORT

NON-PARTY POLITICAL

1.52 It is important that Scottish Charities contribute to public debate and we would encourage Scottish Charities to campaign on particular issues which are in fulfilment of their charitable purpose. We believe that an organisation whose purposes are charitable should be able to engage in activities which are directed at securing or opposing changes in the law or in the policy or decisions of government, whether in this country or abroad. We recognise that the dividing line between what is proper debate related to raising key issues, and improper political activity is a difficult one to judge. We are clear that charities should not be party political organisations, but we would encourage them to contribute to public debate.

1.53 Campaigning by charities with the aim of influencing government policy can arouse strong feeling. Some feel that this is an appropriate way for charities to raise issues of concern, others feel that it is an abuse of charitable funds. We welcome the guidance¹⁵ that has been prepared by the Charity Commission on political activities and campaigning by charities and endorse the approach taken by it wholeheartedly. It would be for CharityScotland to issue its own advice and guidance once it was established.

1.54 However, we believe that some organisations are still denied charitable status because of the political campaigning which they undertake. We submit that under the current law, a wide range of purposes related to the law or government policy are

considered to be non-charitable and suggest that purposes that are concerned with changing the law should not necessarily be excluded from charitable status. We do believe, however, that organisations undertaking party political activities should never be charities.

Recommendation 6:

We recommend that only party political organisations should be automatically excluded from obtaining charitable status by virtue of their purposes.

KEY EXCERPTS FROM THE AUSTRALIAN COMMITTEE'S CONCLUSIONS:

The Committee recommends that charities should be permitted to engage in advocacy on behalf of those they benefit. Conduct of this kind should not deny them charitable status even if it involves advocating for a change in law or policy. Submissions from both charities and governments have demonstrated that charities are increasingly asked to represent to governments the interests of those they seek to benefit and to contribute to the development and administration of government policies. The Committee considers that the definition of a charity should not prevent these developments as they represent an effective means of delivering outcomes for individuals, charities and governments.

However, we also consider it important to maintain the independent status of charities. Their independence from government or any particular political grouping is an important feature of their ability to serve their beneficiaries and to contribute more broadly to the public good. Independence allows charities to identify groups needing

support and to make decisions about the best way to provide assistance to them ‘without fear or favour’. The independence of the charitable sector is also an important factor in their gaining the confidence and trust of the wider community.

Supporting political parties or candidates for political office risks compromising charities’ independence. The Committee supports the need for a distinction to be drawn between such party-political activities and other types of lobbying activity. The Committee recommends that charities be prohibited from having purposes or undertaking activities that advance a political party or a candidate for political office. This would include direct support of or opposition to political parties or candidates for political office or encouraging members of the public to support or oppose particular parties or candidates for political office. Such support could include donations as well as undertaking research on behalf of political parties or candidates or making other resources of the entity available to a political party or candidate, for example staff or office supplies and equipment. If a charity engages in this type of activity its charitable status should be lost.

Non party-political purposes or activities such as advocating on behalf of their causes or needs, contributing to the development or implementation of public policy, entering into the public debate, or seeking to change a particular law or public policy, should be assessed against the same principles as other purposes and activities. The principles recommended by the Committee are that to be a charity an

entity’s dominant purposes must be charitable and any other purposes must further, or be in aid of, the charitable purposes or be incidental or ancillary to them. In line with these principles it is the Committee’s view that if an entity has a non-party political purpose that purpose must further, or be in aid of, the dominant charitable purpose or be incidental or ancillary to the dominant charitable purpose. Any non party-political activities of a charity should not affect its charitable status provided it acts in good faith and its activities are not illegal or against public policy.

Recommendation 17:

That charities be permitted neither to have purposes that promote a political party or a candidate for political office, nor to undertake activities that promote a political party or a candidate for political office.

**KEY EXCERPTS FROM
MATERIAL PRODUCED BY
THE CHARITY COMMISSION
OF ENGLAND AND WALES -
REPORT CC9:**

9. Although an organisation established for political purposes can never be a charity, the trustees of a charity may do some things of a political nature as a means of achieving the purposes of the charity.
10. This principle, although easy to state, is not always easy to apply in practice. In applying it charity trustees must take particular care, since the dividing line between proper debate in the public arena and improper political activity is a difficult one to judge. The guidance given in this publication, which is drawn from the principles established by the Courts, is designed to help trustees to determine that line

in relation to a range of activities. Any political activity undertaken by trustees must be in furtherance of, and ancillary to, the charity's stated objects and within its powers.

11. To be ancillary, activities must serve and be subordinate to the charity's purposes. They cannot, therefore, be undertaken as an end in themselves and must not be allowed to dominate the activities which the charity undertakes to carry out its charitable purposes directly. The trustees must be able to show that there is a reasonable expectation that the activities will further the purposes of the charity, and so benefit its beneficiaries, to an extent justified by the resources devoted to those activities.
12. Where these requirements are met, trustees of charities may properly enter into dialogue with government on matters relating to their purposes or the way in which the trustees carry out their work. They may publish the advice or views they express to Ministers. They may also seek to inform and educate the public on particular issues which are relevant to the charity and its purposes, including information about their experience of the needs met in their field of activities and the solutions they advocate. But they must do so on the basis of a reasoned case and their views must be expressed with a proper sense of proportion.
13. Trustees must not advocate policies, nor seek to inform and educate, on subjects and issues which do not bear on the purposes of their charity. Moreover, the manner and content of any support of, or opposition to, legislative or policy change must be consistent with these guidelines.
14. In summary, therefore, a charity can engage in political activity if: there is a reasonable expectation that the activity concerned will further the stated purposes of the charity, and so benefit its beneficiaries, to an extent justified by the resources devoted to the activity; the activity is within the powers which the trustees have to achieve those purposes; the activity is consistent with these guidelines; and the views expressed are based on a well-founded and reasoned case and are expressed in a responsible way.

APPENDIX C

CONSULTATION AGENDA (STANDARDIZED)

<p>9:00 Opening by Local Host Introductions and Expectations – in small groups¹⁶ Review of the Agenda and Expectations – facilitator (Shauna Sylvester)</p>	<p>1:45 Roundtable Session #2 Process:</p> <ul style="list-style-type: none"> • review the guiding questions: <ul style="list-style-type: none"> – will the option solve the problem? – will the public support it? – will the federal government support it? – will it create new problems? • ask each person in turn what their preferred option or options are • work towards reaching a consensus position for your table • prepare a recommendation for IMPACS
<p>9:15 Overview of the Project – Brenda Doner Context Setting – Gordon Floyd</p>	
<p>10:15 Overview of the Law – Richard Bridge Question and Answer Session in plenary</p>	
<p>10:45 Break</p>	
<p>11:00 Roundtable Session #1¹⁷ [small group discussion of 5 to 8 people] Did IMPACS overstate, understate or accurately state the problem? Discuss your experiences with the law Post any questions for clarification</p>	<p>2:45 Break</p>
<p>12:00 Responses from Roundtables</p>	<p>3:00 Plenary – Review recommendations of each group Question and Answer</p>
<p>12:15 Lunch</p>	<p>3:30 Complete Surveys</p>
<p>1:00 Overview of Options for Change – Richard Bridge Questions and Answer Session in plenary</p>	<p>3:45 Next Steps – Brenda Doner</p> <p>3:50 Evaluation</p> <p>4:00 Closing by Local Host</p>

APPENDIX D

SURVEY FINDINGS

TABLE 1
Responses by Type of Organization and Budget Size Expressed in % of Total (m = thousand, mm = million)

Category of Organization	Size of Budget						Grand Total
	<\$100m	>\$100m	>\$500m	>\$1mm	over \$5mm	(blank)	
Charity	8%	22%	8%	18%	9%	1%	65%
Consultant	0%	0%	0%	0%	0%	1%	2%
Government	0%	1%	0%	0%	1%	1%	4%
Legal Practice	0%	0%	0%	0%	0%	0%	0%
Other	1%	1%	1%	0%	1%	0%	5%
Registered Non-Profit	9%	7%	1%	1%	0%	1%	18%
Unincorporated Non-Profit	4%	0%	0%	0%	0%	0%	5%
(blank)	0%	0%	0%	0%	0%	0%	1%
Grand Total	23%	31%	10%	20%	11%	4%	100%

TABLE 2
Responses by Respondent Position Expressed in % of Total

Respondent Position	Total
admin/clerical	4%
Board	21%
Legal Counsel	1%
Other	8%
Program Officer	12%
Senior Manager	46%
Volunteer	6%
(blank)	1%
Grand Total	100%

TABLE 3
Responses by Type of Organization (some respondents may have indicated two or more)

Type of Organization	Total
Abilities	26
Community Economic Development	33
Education	123
Environmental	55
Ethnocultural, etc	44
First Nations	14
Foundation	36
Health	104
Human Rights	51
Labour	2
Media	6
Other	109
Poverty	77
Religion/Faith	23
Social Service	94
Volunteer	46
Women	79
Youth	56

TABLE 4**Respondents by Organizational Status**

	Total
Did not complete application to CCRA	30
Chose not to apply	40
Applied but were declined	32
Did not apply	32
Has charitable status	326
(blank)	30
Grand Total	490

TABLE 5**Respondents by Size of the Population Served by the Organization**

	Total
< 65,000	85
65,000–99,000	30
100,000–499,999	105
over 500,000	257
(blank)	13
Grand Total	490

TABLE 6**Responses by Jurisdiction and Scope of Organization in %**

Jurisdiction	Scope						Grand Total
	International	Local	National	Provincial	Regional	(blank)	
AB	1.40%	8.80%	1.80%	3.70%	1.60%	0.00%	17.30%
BC	2.40%	4.90%	1.60%	6.10%	2.40%	0.40%	18.00%
MB	0.60%	2.00%	1.60%	3.10%	0.00%	0.00%	7.30%
NB	1.20%	1.40%	1.00%	2.70%	0.80%	0.00%	7.10%
NF	0.00%	2.00%	2.00%	3.90%	0.20%	0.00%	8.20%
NS	0.00%	1.00%	1.00%	1.60%	1.20%	0.00%	4.90%
NWT	0.20%	0.20%	0.60%	2.00%	0.00%	0.00%	3.10%
ON	2.20%	6.10%	6.50%	4.50%	1.60%	0.40%	21.40%
PEI	0.00%	0.20%	0.00%	0.20%	0.00%	0.00%	0.40%
PQ	0.20%	1.60%	0.40%	2.20%	1.60%	0.00%	6.10%
SK	0.40%	1.00%	0.40%	1.00%	0.20%	0.00%	3.10%
YK	0.00%	0.40%	0.00%	1.80%	0.00%	0.00%	2.20%
(blank)	0.00%	0.00%	0.20%	0.20%	0.00%	0.40%	0.80%
Grand Total	8.80%	29.80%	17.30%	33.10%	9.80%	1.20%	100.00%

TABLE 7**Number of Respondents Who Believe that Law is Adequate in its Current Form**

	Total
strongly agree	9
agree	18
somewhat agree	39
disagree	131
strongly disagree	259
don't know	24
(blank)	10
Grand Total	490

TABLE 8**Number of Respondents Who Believe that the Law Must be Changed**

	Total
strongly agree	278
agree	128
somewhat agree	41
disagree	7
strongly disagree	4
don't know	24
(blank)	8
Grand Total	490

TABLE 9
Number of Respondents Who Believe that the Best Way to Change the Law is Through the Courts

	Total
strongly agree	19
agree	39
somewhat agree	105
disagree	184
strongly disagree	47
don't know	75
(blank)	21
Grand Total	490

TABLE 10
Number of Respondents Who Believe that the Best Way to Change the Law is Through Legislation

	Total
strongly agree	192
agree	194
somewhat agree	40
disagree	8
strongly disagree	3
don't know	39
(blank)	14
Grand Total	490

TABLE 11
Options as Ranked by Respondents

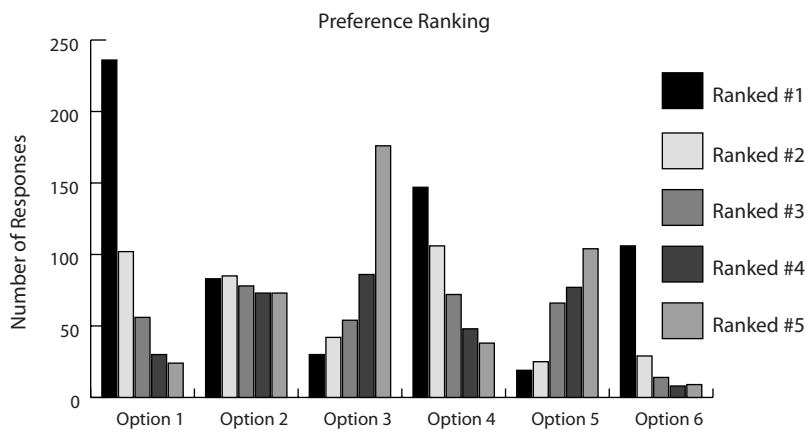
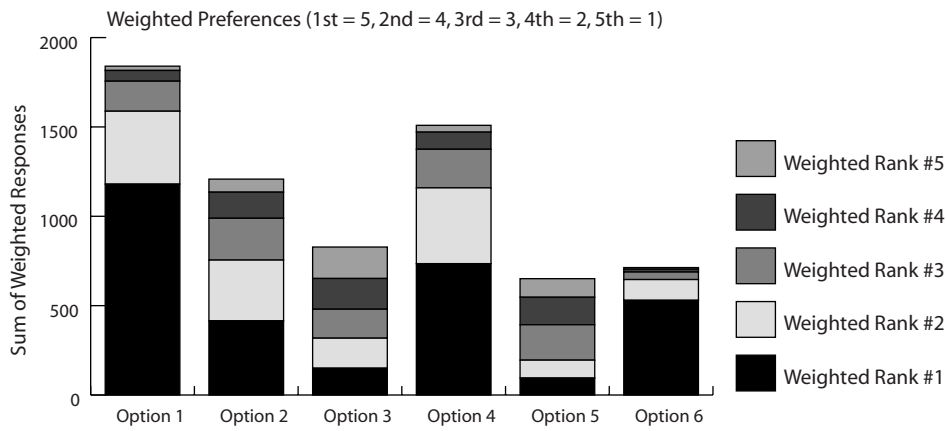


TABLE 12
Options as Ranked by Respondents



NOTES

- ¹ This paper was completed in the spring of 2000, and is available at www.impacs.org
- ² The options paper is also available at www.impacs.org
- ³ An analysis by the Canadian Centre for Philanthropy (CCP) of data from the 1997 *National Survey of Giving, Volunteering and Participating* shows that Canadians gave \$19 million to “civic and advocacy organizations.” Empirical evidence on this point is lacking. However, if one assumes that none of this amount is now receipted and that a change in the law would make the full amount receiptable, at an average tax credit of 27%, the incremental cost would be approximately \$5.1 million per year to the federal government and, at an average of 42% of the federal tax rate, approximately \$2.2 million per year collectively to all provincial governments, for a liberally-estimated total of \$7.3 million per year. In the words of Gordon Floyd of the CCP, this is “a rounding error.” Floyd points out that it is difficult to predict how greater latitude for advocacy may impact charitable donation patterns, but arguments that greater latitude will cause serious fiscal problems do not appear to be well founded.
- ⁴ Sensitivity to this concern seemed heightened by the terrorist attacks of September 11, 2001, and the suggestion of a possible link between organizations with charitable status and “terrorist” organizations. Some participants in the dialogues expressed concern that the federal government may move to limit the role of charities generally.
- ⁵ A recurring theme in the feedback by participants at the end of each session was an expression of appreciation that the sessions were consultative in nature, and not merely a lecture and the presentation of a single position.
- ⁶ A copy of the agenda used for the consultation sessions is attached as Appendix C.
- ⁷ See www.impacs.org for the complete paper.
- ⁸ See Appendix B.
- ⁹ An important issue or problem related to the interpretation of this option is discussed under “An Additional Question to Participants” below.
- ¹⁰ Webb, K. (2000) *Cinderella’s Slippers? The Role of Charitable Tax Status in the Financing Canadian Interest Groups*. Vancouver: SFU-UBC Centre for the Study of Government and Business.
- ¹¹ This option is also found in a paper entitled “The Law on Charity and Advocacy: Current Issues and Possible Solutions” by Libardo Amaya and David Mossop Q.C., prepared for The Affiliation of Multicultural Societies and Service Agencies of B.C. (AMSSA). It is available at www.amssa.org/pdf/charities&advocacy.pdf. The key descriptive passage from the paper reads as follows:
- Political activities should be defined in the *Income Tax Act* to include lobbying government, demonstrations, press conferences and generally attempting to influence government policy. The existing requirement that such activities be ancillary and incidental remain.
- A new class of charitable organization called the *Small Charitable Organization (SCO)* would be created. This SCO would be allowed to engage in political activities provided it fitted within the new definition and did not exceed a dollar limit. In other words, they could advocate for the changes in the law, or attempt to influence public

opinion with no restrictions. However, such an organization would continue to be an SCO provided it did not issue charitable tax receipts for a dollar figure over \$20,000 per year or other dollar figure. This would ensure that only SCOs could attempt to influence governmental policy and would prevent the creation of rather large charitable organizations who had devoted their time exclusively to that purpose. Existing prohibition against political activities would continue for the large organizations. However they would benefit from the new definition.

This system would allow small organizations to engage in advocacy. It would set a figure that the community and CCRA could understand and adhere to. No doubt some protection would be needed to prevent the spinning off of SCOs that were controlled by the same group of persons.

- ¹² The survey is available from Brenda Doner at: brendad@impacs.org
- ¹³ This option was presented at the 11 sessions following the Fredericton session.

- ¹⁴ The Maytree Conference workshop did not follow the agenda of the National Dialogue sessions.
- ¹⁵ The Charity Commission of England & Wales publication CC9 is available at www.charity-commission.gov.uk/
- ¹⁶ Generally participants stayed with their roundtable group throughout the day (exception: Victoria); IMPACS and CCP resource staff joined the tables when invited to provide information.
- ¹⁷ If a host community had arranged for a local speaker, the agenda was condensed by 30 minutes to allow the speaker to address their case study.
- ¹⁸ The Fredericton option arose part way through the tour, which started with two special sessions in Ontario in late September and then traversed the country, east and west. Therefore, dialogues that followed the Fredericton session considered the Fredericton option. Likewise, dialogues that followed the Saskatoon session considered the Saskatoon proposal.

ADDENDA

ETHNOCULTURAL POLICY PAPERS

There are three additional papers available on how this issue affects ethnocultural and refugee and immigrant serving communities. With the support of The Maytree Foundation, IMPACS commissioned these papers from Ontario Council of Agencies Serving Immigrants – OCASI (<http://www.ocasi.org/>), Affiliation of Multicultural Societies & Service Agencies of BC – AMSSA (<http://www.amssa.org/>) and Canadian Ethnocultural Council (http://www.ethnocultural.ca/about_ccc.html). The papers are available at www.impacs.org, or from the authoring organizations.

We are also grateful to the Canadian Ethnocultural Council and to Deborah Senior for support in outreach to ethnocultural communities.

CORRECTIONS

In the section, ‘Host Communities and Host Organizations’ on page 11, the entry under Yellowknife, N.W.T. should read: *YWCA of Yellowknife*.

The following are changes to the section, ‘Groups that attended the 2001 dialogue tour’ on pages 11-18:

- *Child Friendly Calgary – Youth Volunteer* should read simply, *Child Friendly Calgary*
- *Ontario Feed the Children* should read *Canadian Feed the Children*
- *Youth Volunteer Corps of Canada* is an addition to the list

Our apologies for errors/omissions and we welcome further corrections.

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