



# **Written Submission to the Special Senate Committee on the Charitable Sector**

## **Canadian Council for International Co-operation (CCIC)**

## **List of Recommendations**

**Recommendation 1:** That, with respect to Section 149.1 of the Income Tax Act, terms including “public policy dialogue and development” or “indirect support of, or opposition to, any political party or candidate” be clarified.

**Recommendation 2:** That any improvements to legislation, policy, and/or regulation governing Canadian charities be developed in dialogue with Canadian charities, using a diverse array of consultation and engagement methods.

**Recommendation 3:** That the Government of Canada engage in dialogue and consultation with Canadian charities working internationally, to identify improvements to the Canada Revenue Agency’s direction and control policy to ensure this policy reflects Canada’s commitments to equal partnership and localization in development cooperation.

**Recommendation 4:** That anti-terror facilitation legislation and regulations, as well as donor agreements, should exempt impartial humanitarian action undertaken with due diligence.

The Canadian Council for International Co-operation (CCIC) appreciates the opportunity to make this submission to the Special Senate Committee on the Charitable Sector. Canada’s laws, policies, and regulations governing the charitable sector have important impacts on the work of CCIC and its members. This submission focuses on two areas: first, the role that charities play in Canada; and second, some specific impacts of current laws, policies, and regulations affecting Canadian charities, especially the portion of Canada’s charitable sector that works globally.

Charities are significant contributors to both the economic and societal success of Canada. Canada’s charities employ approximately two million Canadians and represent \$135 billion or 8.1% of GDP. The international cooperation sector alone employs 14,000 Canadians and spends over \$5 billion annually. Moreover, charities are a core element of Canada’s national identity – contributing to our society as well as our economy. When Canadian charities do well, Canada does well – and moreover, when Canadian charities do well, Canada does good.

As indicated in CCIC’s submission and testimony to the Finance Committee during the [2019 Pre-Budget Consultations](#), and on the [2018 Budget Implementation Act No. 2](#), Canada’s competitive advantage includes ensuring we have a strong charitable sector. In turn, a central precondition of a strong charitable sector is a legislative, policy, and regulatory environment that is fully conducive to charities realizing their full potential.

It is therefore good to see that recent steps, including through the 2018 Budget Implementation Act No. 2, reflect the recommendations of the independent [Consultation Panel on the Political Activities of Charities](#). In particular, CCIC wholeheartedly welcomes the amendment of Section 149.1 of the Income Tax Act to accept and acknowledge the important public policy role of Canadian charities. CCIC supports the continuation of a prohibition on partisan activity by charities. However, the previous limit on public policy activities was at once vague and overly restrictive, and overdue for reform.

Yet while the amendments brought in the 2018 Budget Implementation Act No. 2 removed the limit on public policy activities, they did not clarify what exactly would be meant by “public policy dialogue and development” or “indirect support of, or opposition to, any political party or candidate.” This left a high degree of lingering uncertainty in the charitable sector.

**As previously argued in testimony on the 2018 Budget Implementation Act No. 2, CCIC recommends that these terms be clarified.** The [draft administrative guidance](#) from the Canada Revenue Agency on public policy dialogue and development activities by charities, currently open for public and stakeholder comments, moves a considerable way towards clarifying these terms. This is welcome. However, some ambiguities remain, such as the timeframe in which a charity must review public messages to a platform hosted by the charity, and remove any that support or oppose a political party or candidate for public office. It is also somewhat unclear how this policy would interact with direction and control provisions (see below), notably in cases where resources are transferred to a partner which then uses those resources in a way

that directly or indirectly supports or opposes a political party or candidate for public office. As an example, while public policy dialogue and development activities are defined so as to explicitly include activities both inside and outside of Canada, it is not clear from the draft administrative guidance if a local partner's support for a political party or candidate for public office in a developing country would compromise the charitable standing of a Canadian charity.

It is worth noting that the amendments brought through the 2018 Budget Implementation Act No. 2 result from the very public policy dialogue the Income Tax Act now limits. As indicated by the high level of interest in the work of the Special Senate Committee, CCIC and other charities are keen to keep working with the government and parliamentarians to develop a modern regulatory and legislative framework for Canada's charitable sector.

**CCIC therefore recommends that any improvements to legislation, policy, and/or regulation governing Canadian charities be developed in direct dialogue with Canadian charities, using a diverse array of consultation and engagement methods.** Such an approach would be reflective and inclusive of the full diversity of the Canadian charitable sector.

The aforementioned recommendations apply to all Canadian charities. There are, however, specific policy improvements needed for charities operating internationally.

Existing Canada Revenue Agency [requirements around direction and control](#) require registered charities in Canada to exercise full direction and control over the operations of local partners in developing countries. This policy is a challenge to the goal of equal partnership with local communities and civil society – a core principle of Canada's [Feminist International Assistance Policy](#), as well as Canada's commitment through the [Grand Bargain of the World Humanitarian Summit](#), the [2030 Agenda for Sustainable Development](#), and the [Busan Partnership for Effective Development Cooperation](#). Canadian charities are obliged under direction and control provisions to be a dominant partner, not an equal one.

Direction and control requirements are problematic across all development and humanitarian contexts. However, they are particularly strict and complex in conflict and fragile settings, where [anti-terror legislation](#) is an aggravating factor. While the Canadian government has made strong and important statements in defence of humanitarian principles, and demonstrated its willingness to listen to, understand, and respond to concerns from civil society about the conflation of humanitarian and security objectives, Canada's anti-terror legislation undermines these commitments; more fundamentally, it contradicts International Humanitarian Law.

Existing anti-terror legislation is blind with respect to situations in conflict-affected, fragile, and radicalized contexts where humanitarian operations are underway, and compromises the ability of agencies to engage in direct field operations consistent with the principles of humanity, impartiality, neutrality, and independence. Due to vague and broad definitions, particularly around facilitation, Canada's anti-terror legislation may require humanitarian

organizations to be more directive and less timely in delivering programs with local partners. Canada's anti-terror legislation can thus keep assistance from reaching the most vulnerable people affected by conflict. The cost is ultimately measured in human lives.

**CCIC recommends that the Government of Canada engage in dialogue and consultation with Canadian charities working internationally, to identify improvements to the Canada Revenue Agency's direction and control policy that will ensure this policy reflects Canada's commitments to equal partnership and localization in development cooperation.**

**CCIC recommends that anti-terror facilitation legislation and regulations, as well as donor agreements, should exempt impartial humanitarian action undertaken with due diligence.**

In the coming months, CCIC intends to conduct further research on Canada's direction and control policy and anti-terror legislation, including international comparative analysis, to gain a fuller understanding of the impact these provisions have on the Canadian charitable sector.

CCIC is committed to supporting a Canadian charitable sector that works globally to protect human rights and eradicate poverty. The recommendations in this brief will help foster an enabling environment that allows Canadian charities to achieve their full potential, and continue to play an important role in building a fairer, more sustainable, and safer world.