SUBMISSION RE: Government has a role in strengthening Canada’s charities and non-profits: Senators Mercer, Omidvar

I believe I may have an entirely unique viewpoint on Canadian non-profit organizations and charities, having not only had years of experience as a major donor—but also, experience as a supplicant.

Since 1989, I’ve headed a private charitable Foundation. Though it’s U.S. based, it also makes donations throughout Canada, including the Hospital for Sick Kids, SFU, UVIC, The Downton Vancouver Eastside Learning Exchange, various school districts, and many other non-profits. Privately as a family we’ve given over four million dollars to UBC and the University of Toronto. Hence, I fully understand the vast private financial resources necessary to buttress our universities, libraries, and communities.

At the same time, as the founder/leader of a dedicated Canadian civil-action group known as the Lost Canadians, I’ve also contacted dozens and dozens of non-profits to ask for their help or support (legal, moral and/or financial.) Based on these polar-opposite experiences, I have an unusual perspective and definite thoughts on the state of non-profit and charitable organizations in Canada.

Lost Canadians form a huge “club”, a group to which no one wants to belong. The Lost Canadian organization is dedicated to doing everything possible to restore citizenship to Canadians who 1.) Lost it through no fault of their own due to erroneous or discriminatory interpretations of our out-dated citizenship legislation, or 2.) Actually had the right to Canadian citizenship though it had not been officially recognized, or worse, been denied altogether. For years, a half-dozen of this group and I have been the working core of the Lost Canadians, each of us fully engaged in helping to research, write and publicize the issues that unfairly excluded all LCs, and to strengthen my dealings with Parliament, federal Ministers and cabinet members of whichever government is sitting.

My own citizenship (and that of more than a half million other former LCs) was restored in 2008 when Parliament passed Bill C-37 amending the Citizenship Act; this Bill was our first major victory after years of attempts to rectify what turned out to be just one of 15 different odd (often archaic) legal issues that created—and sometimes still create—the horrible loss of identity and rights that make someone into a Lost Canadian. C-37, which re-instated citizenship for the LC Canadian-born minors was just the beginning. In the years since, the LC working group has tackled the other 14 loss-of-citizenship categories. Although succeeding with several, there are still some outstanding categories and issues; each of these variant categories include people who ought to be Canadians, still waiting without any other recourse than to await changes to citizenship legislation; they are stuck in limbo. Some live in Canada, others have actually been asked to leave Canada, and still others are living elsewhere, and in some sad cases, we know of a few should-be Canadians who live in constant fear as they’re stranded in war-torn areas. It’s utterly shameful.
I was typical of those LCs who had lost their right of citizenship although born in Canada to Canadians. After my father moved to the US to work when I was six years old, Canada stripped me of my citizenship. While at that time it was the law, today the reasons I was stripped would sound ludicrous: 1) I was born in wedlock; 2) I was born in Canada; and 3) I was not adopted. Had any of these factors been different, I would have remained Canadian. My adopted siblings were still Canadian; my mother who remained Canadian was a married woman, so instead, by the archaic British laws that were then still in our citizenship act, I was considered “property” of my father and thus lost my citizenship when he became an American; had my parents not been legally married, I would have “belonged” to my mother and thus retained my natural-born Canadian citizenship. As a young man I attempted to regain my citizenship. I’ve fought for decades to have it recognized. In the end, it took 47 years to get it back when I finally agreed to immigrate to my homeland rather than return as a citizen. And later, when my citizenship was legally reinstated, effective back to my date of birth, it was as a “new” Canadian: I went overnight from a 10th generation Canadian to 1st generation.

Since 2009, the LCs have pushed additional legislative changes with the help of various members of Parliament: one by one, other categories of LCs have thus been eliminated and their citizenships restored. The remaining categories are not remedied as yet.

As Senators you'll be familiar with the recent Bill S-3, about gender discrimination inside the Indian Act: Indigenous women were not afforded the same rights as men in passing on Indian status. The courts declared this exclusion to be discriminatory and unconstitutional. The resulting change was —S-3— to correct gender inequality in the Indian Act. But the same discriminatory provisions of female inequality remain in force in the Canadian citizenship law, and the consequences are keeping descendants of Canadian women—should-be Canadians of both genders—from getting the Canadian citizenship they would otherwise be entitled to, had their grandparent been male rather than female.

To this day, Canada is, shamefully, one of the few countries in the world with laws that can make their own people stateless. In September 2007 the UN magazine Refugees called Canada out as one of a handful of offending nations, in an article titled: "The Strange Hidden World of the Stateless."

Few people, if asked, would know that Canada still does not comply with three major UN human rights conventions:
- The Rights of the Child.
- The Elimination of all forms of Discrimination against Women.
- The Reduction of Statelessness.

And, indeed there are stateless “Canadian” children living both inside of and outside of Canada. Often they are the children of Canadian citizens who through one of the many peculiarities of our citizenship laws have been rendered stateless. Even if currently living in Canada, they have no rights, including those to attend school or have medical coverage. Had these same children
instead been abandoned in Canada, or adopted by Canadians, they'd immediately qualify for all citizenship and thus, civil rights. But in certain circumstances, being born to a Canadian-citizen parent has actually proved harmful; some kids have been threatened with deportation, though their Canadian parents have every right to remain in Canada.

Oddities in our laws had lead to the fifteen separate, distinct ways to lose citizenship, often unknowingly. Every one here respects Roméo Dallaire. Few would ever think he, too, had been stripped of his citizenship. He's a *Lost Canadian* (now “found”) because he was born in Holland to a Canadian father serving overseas in WWII, and a Dutch war bride mother. They registered him as Canadian, as required after he was born, in Holland. Senator Dallaire’s citizenship mess didn't begin until his 24th birthday, when, unbeknownst to him, he automatically fell afool of citizenship law by being outside of Canada on that date; for that reason and that alone, Canada cancelled his citizenship. To add genuine insult to the injury, he was at that time overseas commanding Canadian troops. Years later, on the record, Senator Dallaire said his ordeal through the maze of Canadian citizenship legislation, and the accompanying bureaucracy, was an "*an absolutely inhumane process.*"

Former Senator Brenda Robertson’s father is a *Lost Canadian*, as is Gilles Duceppe’s father. Former Senator and *Lost Canadian* champion Lorna Milne’s mother had her citizenship questioned while her father was mayor of Toronto. Former Governor General Adrienne Clarkson's mother-in-law and brother-in-law are *Lost Canadians*; Clarkson’s husband, John Ralston Saul, later testified in Parliament about Canada’s fault-ridden, discriminatory laws of citizenship.

We've discovered that between 1 ½ and 2 million Canadians were stripped or wrongly denied citizenship since 1947. Somewhat coyly, the current government insists that none of Canada's WWI and WII war dead were ever citizens of Canada. My *LC* group strongly disputes this: after years of historical and legal research, we’ve found scores of documents, Orders-in-Council, legal decisions and assorted official transcripts that prove we were citizens long before 1947. As Remembrance Day, 2018, fast approaches, think hard about those are we honouring: Canadians who gave their lives for this country. Are we really going to continue denying that they were fully enfranchised Canadians, with both the duties and the rights of citizenship?

To date, the burden of proof needed to correct the discriminatory and convoluted citizenship laws has fallen on my small working-group of *Lost Canadians*. We share a deep belief in our Constitution as well as our Charter of Rights and Freedoms. What we have often wished for, and needed, was the help of many—or any—of the charitable organizations across Canada. Over the decades I think I have contacted all of them. I’m concerned as a Canadian that these organizations have not honoured their own mission statements, to help, uplift, fight for, respect and honour the country, Canadians, their values, and our national history. It just has not proved factual.

This includes such civic-minded groups as LEAF, the Canadian Civil Liberties Association, Amnesty International, various Provincial civil liberties organizations, the Canadian Legion, the
Canadian Museum for Human Rights, and even Adrienne Clarkson’s organization, The Institute
for Canadian Citizenship. None of these, or any of the dozens and dozens of others I contacted
even came close to embracing our issues and overall cause; they did not stand with us in public
or in private with word or deed, let alone offer any sort of visible or vocal support, or the
slightest financial aid. We have sponsored several court challenges and only once did any other
organization—the Court Challenges programme—come forward to offer to help. They gave one
of the Lost Canadians $20,000 to help with her legal challenge. (I personally paid all the
expenses for our other court challenges, as well as all of the other assorted costs (travel, hotels,
printing, posters, etc.) for the LCs, either as a group or to help many of them individually.

In time I began asking the Canadian non-profit groups why they did not help; their all too
common response was that due to holding charitable status, they are not allowed by law to
challenge the government, which of course, is what the Lost Canadian group was and is
continually doing. I have been told that doing so would mean risking their tax-favoured status.
Other organizations remarked that our issue was so huge, with so many people affected, that
even if they could help without risk, there was not enough money in their budget.

This is another issue for Canadian non-profits and charities: I never talked to a single one that
wasn't in dire need of money. They therefore often chose to help people whose stories would
command avid media attention and thus have potential for fund raising. Canada needs to do
better for its non-profits; they should not have to go without basic funding from the
government.

I’m submitting this report because I sometimes wonder if the government is aware of the major
deficiencies I have seen, been told of, and been frustrated by when dealing with charitable
organizations and the laws that govern them in Canada. While you study this issue in
committee, I hope you will also look at how other countries, especially our closest neighbour,
deal with their own non-profits. Do they have the same problems and issues? Have they found
better alternatives to restrictive laws governing them? How do they help with ongoing
governmental funding nationally, state-wide, or locally?

As for Court Challenges, organizations like the Southern Poverty Law Center takes on cases that
directly challenge the government, which begs the question: how do they challenge the
government in the U.S. while in Canada, these same types of organizations are forced to
become spectators to all manner of human rights abuses?

Why is the government itself allowed to discriminate against its people in ways that businesses
would be excoriated for? If a private sector employer denied a Lost Canadian employment or
schooling or healthcare because they’d been born out of wedlock, the government of Canada,
and various non-profits would be up in arms about the discrimination. But because the
perpetrator of human rights abuses, of discrimination, of rulings that perpetuate bias, has been
the Government of Canada, these same non-profits turned and looked away rather than
jeopardize their tax status.
The laws for non-profits need to be re-written with common sense and insight. Basic governmental funding support for non-profits need to be improved.

In my book: The Lost Canadians: A Struggle for Citizenship Rights, Equality, and Identity, I talk about the very thing you're now studying: charitable organizations. Sadly, I had to talk about how toothless many of them are because our laws make it almost impossible for them to be otherwise. I also pointed out they are grossly underfunded, and need attention if they are actually expected to carry out their mission statements.

As a pilot I'm an amalgamation of all the pilots I've ever flown with. When they do something better, I learn from them and adapt. I appeal you to apply this same concept with the laws of Charitable giving in Canada. Stop hampering them. Branch out your research and study NGOs and charities in other countries and be willing to find that some of their ways may be better; others may teach what to avoid at all costs. But, please, be bold, change what needs to change; fix the flaws that make the non-profits afraid to fulfill their own mandates. Canada needs all of them to work without political fear, to fully follow and fulfill their stated raisons d’etre.

Thank you most sincerely,

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