



CANADIAN CIVIL SOCIETY ORGANIZATIONS AND INTERNATIONAL DEVELOPMENT

Civil society organizations (CSOs) seek to bring about positive social, economic and environmental change. In pursuing these goals, they complement the work of government, providing services, alternatives and innovation. They also play important roles as advocates, educators and watchdogs. Over the past decade, there has been widespread international discussion on the role of CSOs in international development, culminating in the Busan High Level Forum on Effective Development Cooperation in 2011, where for the first time CSO representatives participated as equals with other development actors. The Busan agreement recognized the important roles that Southern and Northern CSOs play in international development, not just in delivering services, but also in enabling people to claim their rights. It committed the signatories, including Canada, to creating an enabling environment in which civil society organizations can flourish.¹ Busan also recognized the fast-changing dynamic between Northern and Southern CSOs, acknowledging the need for strong, equal partnerships as the latter, increasingly, take on agenda-setting and delivery roles.

For CSOs in Canada, the situation under the Conservative government (2006-15) was actually very different. There was actually an increasingly *disabling* environment. Through politically motivated attacks on CSOs, Canada Revenue Agency audits, the punitive

defunding of some organizations and debilitating changes in the funding mechanisms for others, the Harper government dramatically undermined the capacity of CSOs to work effectively. The politicization of charitable regulation, combined with a narrow and outdated interpretation of what constitutes legitimate charitable activity, has created a set of profound political and public policy challenges for Canadian organizations working in international cooperation, and for the charitable sector as a whole.

Definitions

- *Civil society* is “the arena, outside of the family, the state and the market, which is created by individual and collective actions, organisations and institutions to advance shared interests”.² CSOs is the term commonly used to describe these organizations.
- *Non-governmental organizations* (NGOs) is another term commonly used to describe not-for-profit organizations. However, some organizations – such as churches and unions – do not consider themselves to be NGOs and prefer the term CSO.
- *Charitable organizations* are a subset of civil society, registered and regulated by the Canada Revenue Agency (CRA). Approved charities issue receipts for donations and these may be used by the donor for income tax deductions.

The McLeod Group works to strengthen Canada’s contribution to a better world.

The McLeod Group is made up of professionals with many years of experience in government, civil society and academia, working across the fields of international development, diplomacy and foreign policy. We work with others who value human rights, inclusion, equality and sustainable development to advance Canadian policy and action on international cooperation and foreign affairs.

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Responding to these concerns, the Liberal election platform stated:

We will allow charities to do their work on behalf of Canadians free from political harassment, and will modernize the rules governing the charitable and not-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.³

However in January 2016, the Minister of National Revenue announced that the 24 political activity audits currently underway would continue and the notice of deregistration to five organizations as a result of audits would not change. She also announced that the six scheduled audits would not go ahead and the \$13.4-million program would eventually be wound down.⁴ In the March 2016 budget statement, the government committed to a consultative process to clarify but not change the rules for political activities.

According to an article by lawyer Lauren Heuser, the Constitution actually grants the provinces authority to regulate charities... But for the most part, Ontario and the other provinces have abdicated this responsibility to Ottawa... As a result, charities are governed primarily by the federal Income Tax Act. This is very limiting... because Ottawa can only regulate charities under laws relating to tax administration.⁵

In addition, in Canada the underlying model for charitable organizations remains rooted in a 19th century view: that charities are meant to provide services to the poor and disadvantaged, supported primarily by private philanthropy. The fact that this sector is instead fundamental to citizenship and democracy, builds community, is a social innovator and a force in economic development, is not well understood.⁶ The narrower vision is reflected in Canadian charitable law and its interpretive regulations, which allow CRA officials and auditors considerable discretion.

On Political Activities

Charitable organizations in Canada are restricted from engaging in partisan political activity. They *are* permitted as much public engagement and advocacy as they deem relevant, as long as it is germane to their charitable purpose. CRA has guidelines that many CSOs consider unclear on political activity, which it distinguishes from communication and public awareness campaigns, or advocacy. According to the agency, “When a registered charity seeks to foster public awareness about its work or an issue related to that work, it is presumed to be taking part in a charitable activity as long as the activity is connected and subordinate to the charity’s purpose”.⁷

Canadian International CSOs

After the Canadian government established CIDA in 1968, it created an NGO Division in order to *promote* citizen participation in development activities. Canada became one of the first donor countries to support civil society partnerships, pioneering policies and approaches that were copied by other governments. Today the emphasis is on using CSOs as public service contractors and on reducing citizen participation to a minimum.

Canadian organizations working in international development were among the first victims of the Harper government’s attack on charities. A number of them, including the Canadian Council for International Co-operation and KAIROS, lost their government funding. Several have undergone arduous and costly political audits or have been obliged to narrow their charitable purposes.

On Charitable Activity

In a now-famous incident, Oxfam Canada was told by CRA in 2014 that relieving poverty was a charitable activity but *preventing* poverty was not.⁸ In sharp contrast, the 2011 UK Charities Act states, “the prevention or relief of poverty” is considered charitable.⁹

The change in CIDA/DFATD (now Global Affairs Canada) funding mechanisms may have had the most damaging impact. In 2010, the Minister for International Cooperation announced a major break with CIDA's longstanding programs for financing Canadian CSOs. CIDA would no longer *respond* to proposals made by CSOs. There would be no more of the three- and five-year institutional partnership agreements that had provided stable funding for more than 100 organizations over three decades. All financing for Canadian CSOs would now be conducted through "calls for proposals" designed by the government and focused on government priorities. The *responsive* nature of government funding, which recognized CSOs as development actors in their own right, ended.

On Relations with Overseas Partners

Many Canadian NGOs work in partnership with organizations in developing countries. The Canadian Revenue Agency has tightened its interpretation of how such partnerships are to work, making a mockery of established norms and best practices. CoDevelopment Canada, a Vancouver-based charity, went through a crippling CRA audit and is now required to translate every receipt it receives – from 17 partners in Latin America – from Spanish into either English or French, including such minor things as taxi receipts.¹⁰

Perhaps in recognition of the dismal state of CSO-government relations, the Conservative Minister of International Development created a consultative process in 2014 aimed at developing a Civil Society Partnership Policy. The policy was finalized and released in February 2015.¹¹ As a statement of intent, the policy is a very positive step forward. It incorporates many important and long-established ideas on the role and importance of CSOs. For instance:

- It acknowledges that Canadian CSOs work in support of human rights and the fact that they "engage in research, policy dialogue and advocacy

on issues of importance to international development and humanitarian objectives".

- It notes that civil society "promotes transformative change by addressing underlying causes of poverty or raising new issues and perspectives".
- It says that DFATD will work with CSOs and others to "augment the voice of poor and marginalized people".
- The policy also says that DFATD will "establish equitable, predictable, flexible and transparent funding mechanisms" for CSOs.
- It furthermore asserts that "civil society provides a vehicle... to hold their leaders to account".

At the same time, the Minister also announced the creation of an International Development Advisory Committee.

The Liberals' March 2016 budget statement makes the following promise:

Over the next year, the Government will conduct a review of Canada's international assistance policy framework. This review will include consultations with Canadians and international aid organizations to ensure that all perspectives are heard. The outcomes of the review will inform Budget 2017, and will take into account the Government's international priorities as well as domestic considerations.

It may be the government's intention to include the CSO Partnership Policy and the Advisory Committee in the review.

The Way Forward

The Harper government did a great deal of damage to the relationship with international development CSOs and there is an urgent need to establish a new more effective government-CSO relationship. The CSO Partnership Policy was the product of substantial consultation with CSOs and remains a welcome blueprint. The new government should:

1. Begin the implementation of the CSO Partnership Policy as a matter of urgency.
2. Reduce or eliminate the enormous volumes of red tape the have turned government funding mechanisms into expensive and sluggish nightmares of bureaucracy.
3. Bring Canadian charitable regulations into the 21st century and use them to *enable* rather than restrict the voice of CSOs in pursuit of their charitable objectives.
4. Validate the role of Canadian CSOs as an independent and legitimate part of Canada's international development effort and welcome their contribution to policy development, including in the upcoming review of the international development policy and funding framework.

NOTES

¹ Busan Partnership for Effective Development Co-operation, 2011, Section 22, www.oecd.org/development/effectiveness/-49650173.pdf.

² CIVICUS, *Bridging the gaps: Citizens, organisations and dissociation* (Johannesburg: CIVICUS – World Alliance for Citizen Participation, 2011), p. 8.

³ Liberal Party of Canada, *A New Plan for a Strong Middle Class*, October 2015, p. 34, <https://www.liberal.ca/files/2015/10/-New-plan-for-a-strong-middle-class.pdf>

⁴ Dean Beeby, “Charities push back against Liberals on political audits”, March 14, 2016, www.cbc.ca/news/politics/charities-push-back-against-liberals-on-political-audits-1.3490988.

⁵ Lauren Heuser, “Why the federal Liberals’ charity reforms don’t address outdated rules”, February 18, 2016, <http://two.org/article/current-affairs/shared-values/why-the-federal-liberals-charity-reforms-dont-address-outdated-rules>.

⁶ See, for example, Susan Phillips, “Civil Society Under Neglect”, *The Philanthropist*, vol. 23, no. 1, 2010, p. 66, www.thephilanthropist.ca/index.php/phil/article/download/819/663.

⁷ CRA. “Political Activities – Policy Statement”, www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html#N102F5.

⁸ See Canadian Press, “‘Preventing poverty’ not a valid goal for tax purposes, CRA tells Oxfam Canada”, July 25, 2014, www.cbc.ca/news/politics/preventing-poverty-not-a-valid-goal-for-tax-purposes-cra-tells-oxfam-canada-1.2717774.

⁹ UK Charities Act 2011, www.legislation.gov.uk/ukpga/2011/25/contents/enacted.

¹⁰ Dean Beeby, “Small foreign-aid charity struggles with onerous CRA demands after audit”, July 30, 2014, www.cbc.ca/news/politics/small-foreign-aid-charity-struggles-with-onerous-cra-demands-after-audit-1.2722325.

¹¹ DFATD, “International Development and Humanitarian Assistance Civil Society Partnership Policy”, 2015, www.international.gc.ca/development-developpement/cs-policy-politique-sc.aspx?lang=eng.