

CHARITABLE STATUS: KEY ISSUES

All charities are at risk

If an organization's charitable status is at risk simply because its views or beliefs are different than those of the government, all charities are at risk. It means that every time the government adopts a new view or political priority, or any time a new government is elected, charitable status for specific groups will be in jeopardy.

Dishonesty is already addressed in the *Income Tax Act (ITA)*

Charities that make false statements in circumstances that amount to culpable conduct (s 149.1(4.1)(c), 168(1)(d) /ITA) can lose charitable registration. Similarly, charities are prohibited from having directors, trustees, officers or like officials who, among other things, have been convicted of crimes involving financial dishonesty (s (149.1(1))).

Diversity is rightly reflected in the charitable sector

Canada is a diverse and pluralistic nation. Its diversity is represented in many ways, including through the diversity of charitable organizations. When it comes to all matters of conscience, belief, and non-belief it is incumbent on the government to neither "favour nor hinder any particular belief, and the same holds true for non-belief."¹

Mischaracterizing charities is wrong

No category of charity should have its work mischaracterized or be labelled as dishonest simply because its views or beliefs are different than those of the current government. Similarly, no category of charity should be singled out for disproportionate numbers of audits or monitoring simply because it holds certain views or beliefs, whether about religion, the environment or other matters, that differ from the government.

Donors must have free choice

Charities rely on donations from Canadians to fund their charitable activities. Canadians are motivated to donate for a variety of reasons, both personal and ideological; for example, being personally affected or believing in a particular cause.² Charities function as part of Canada's civic core – other-centered, pro-social, pursuing goals beneficial to the community. Donors ought to have free choice in where and how to build that civic core.

Charities can oppose laws, policies and decisions of government

Charities must use all of their resources for charitable activities. [Public policy dialogue and development activities](#) are charitable when they further a charitable purpose (advancing education, advancing religion, relieving poverty, etc.). A charity may publicly agree or disagree with a decision or position of the government. A charity may advocate to retain, oppose, or change a law, policy or decision, of any level of government.

¹ [Mouvement laïque québécois v Saguenay \(City\)](#), 2015 SCC 16 at para 72 [*Saguenay*]

² David Lasby and Cathy Barr, [30 Years of Giving in Canada](#) (Toronto: Rideau Hall Foundation and Imagine Canada, 2018) at pp 43-48.

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Freedom of expression is at risk

Free expression ensures that everyone can express their thoughts, opinions, and beliefs, however unpopular or contrary to the mainstream.³ Freedom to fully and openly express views on social and political issues is fundamental to democracy and therefore to all other *Charter* rights and freedoms. Restrictions that touch the core of social and political issues raise concerns about the “dangers inherent in state censorship of such debate.”⁴

Targeting charities on the basis of their views or beliefs undermines state neutrality

The government must preserve a neutral public space where there is “true freedom to believe or not to believe.” Neutrality does not mean “the homogenization of private players in that space.” Rather, neutral public spaces “preserve and promote the multicultural heritage of Canadian society.”⁵

Targeting a subsection of charities for de-registration on the basis of its views is wrong and violates the principle of state neutrality. Demanding agreement with a certain set of priorities or views before entry into a ‘neutral’ space undermines freedom to believe or not to believe, imposes uniformity, and rejects diversity of thought and expression.

³ *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989]1 SCR 927 at 968

⁴ *R. v. Keegstra*, [1990] 3 SCR 697 at 849

⁵ *Saguenay* at para 74.