



Canadian Ecumenical  
Justice Initiatives /  
Initiatives œcuméniques  
canadiennes pour  
la justice

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L'Église Unie du Canada  
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**Submission by KAIROS: Canadian Ecumenical Justice Initiatives  
November 17, 2016**

The mandate of KAIROS: Canadian Ecumenical Justice Initiatives is to be a faithful ecumenical response to God's call to "do justice, love kindness and walk humbly with our God" (Micah 6:8). We bring ten churches and religious organizations together in education, advocacy, and partnership for ecological justice and human rights, as an expression of Christian faith. Our work is done in conjunction with a network of people of faith and conscience across the country, Indigenous, migrant and civil society groups in Canada, and 23 global partners. KAIROS is a joint ecumenical program of the United Church of Canada, which is a Canadian charity.

We welcome the opportunity to contribute to this review of the rules governing political activity by charities. We believe, aligned with the Minister of National Revenue's mandate, that *a new legislative framework for charities* is what is required. We offer a series of principles, as well as key outcomes, that we are seeking from this legislative process.

**Principles**

**KAIROS affirms the following principles related to reform:**

**Clarity:** The result of any changes must be a greater clarity as to the rules governing the sector as the current rules lead to sector-wide uncertainty.

**Generosity:** Recognizing their contributions to Canada, charities must function in an environment that enables rather than overly restricts their contributions and is not highly punitive of minor violations in regulations.

**Transparency:** While mindful of some needs for confidentiality, the system must be more transparent to reduce unnecessary suspicion and allow for ongoing reflection on fairness.

**Trust:** Changes must contribute to decreased potential for political interference and trust being rebuilt between government and the sector.

**Social Change:** Reform must acknowledge that prevention of social problems, or an end to inequities and injustice, is by far the best outcome (rather than only ameliorating negative impacts).

**Best Practices:** Changes should result in legislation that supports established and innovative best practices by charities.

## Main Outcomes

Legislative Reform should result in:

**A) A modernized definition of charities and charitable purpose that clearly reflects current examples of public benefit (e.g., human rights, ecological protection) in Canada and abroad and is inclusive of advocacy organizations that seek public benefit or common good.<sup>1</sup>**

The legal definition of charitable purposes is based on a long line of case law, and affected by current Canada Revenue Agency (CRA) interpretations. It is unclear and does not respond to the demands of modern democracies. Advocacy organizations have often been excluded from being defined as charitable even when addressing social needs can often be best accomplished through policy advocacy.

**B) An end to restrictions on charities' participation in public debate and public policy development, and explicit protection of the free speech of charities so that charities can advocate for a change in government decisions, policies or laws or comment on a position related to achieving charitable purpose (regardless of whether a candidate or political party explicitly has also done so).**

Canadian charities have been required to cap political activity at 10%, ensuring they are doing most of their work on *charitable* purposes. The CRA definition of political activity, which includes "explicitly communicating to the public that a law, policy or decision of any level of government inside or outside Canada should be retained, opposed, or changed" is unclear and subject to multiple interpretations. Secondly, given the confusion and the reality that penalties for exceeding 10% can be dire, charities can shy away from engaging in anything remotely considered political activity to the detriment of robust policy dialogue, let alone the public good, in Canada.

Given that businesses have the ability to deduct political advocacy expenses without arbitrary limits, there appears to be an inequitable societal weighting towards for-profit corporate interests. Allowing charities more freedom to participate in public debate has the potential to enhance the public policy development process in ways that benefit democracy and the common good.

**C) Continued restrictions of charities' participation in partisan activity, but only in so far as it relates to direct participation of a charity in electoral campaigns on behalf of a party or candidate (such as endorsements or funding), and not in such a way as to hamper charities participation in the political process (such as the creation of legislation) or to curtail free speech.**

Current charity law legitimately restricts partisan political activity. However, what is defined as partisan is unclear and cumbersome at the implementation level, and appears to restrict charities' legitimate participation in political processes (e.g., private members bills). Further,

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<sup>1</sup> Public benefit must be understood as subject to the Charter of Rights and Freedoms.

parliamentarians, political parties, and bureaucrats are often very unclear on the restrictions, placing demands on charities that they cannot easily legally fulfill.

**D) Direction and control regulations that better reflect genuine partnering with organizations in the developing world or in Canada (such as through coalitions) in determining and overseeing priorities and program, and prove less onerous for community level programs.**

Current direction and control requirements can work contrary to partnership principles that have been long established as guiding best practice in the international development and Canadian social change communities. The level of administrative and financial accountability can prove impractical, particularly for grassroots programs in fragile states. A simplified oversight process would allow valuable charitable work to happen in difficult and dangerous situations. Strong partnership principles are an inherent part of working for equality, respect, and the common good.