

Notes on presentation by Jennifer Henry, Executive Director of KAIROS

at event “Charities, Churches, and the CRA”, sponsored by Voices For a Just Society

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The role of churches is to be a public witness to the gospel; to protect the dignity of human beings, the integrity of creation; to discern, reveal, speak out about injustice. As organizations who serve communities of marginalized people, their job is to join with groups that have a similar vital window into injustice, to share views and provide ethical witness to injustice; this can include making proposals and advocating for policy or legislative change.

Organizations with charitable status must comply with the law. The benefit of charitable status also brings restrictions; if the restrictions conflict with the organization’s beliefs, there may be a sense of conflict.

The current conceptions of charity date back to 1601.

In 1930 four charitable categories were affirmed in Canada (based on a precedent in the British House of Lords): advancement of education; relief of poverty; advancement of religion; and purposes beneficial to the community that do not fall under the other three purposes. These are antiquated and unclear charitable divisions. For example, where do environmental concerns as we understand them fit? How are things changed in a social media environment?

As of the 2012 statistics, there are 85,000 charities in Canada, including approximately 7,500 that are not active. The activity of charities accounts for 7% of Canada’s GDP; 1.75 million full time staff are employed, plus 1.8 million part time employees. They receive annually \$223 billion in revenue. Only 444 charities have declared that they engage in political activities.

The Canada Revenue Agency provides a definition of political activities, with examples of what may be considered political activities vis a vis charitable activities. (see handout attached)

Charitable organizations may engage in political activities that are connected to and subordinate to their charitable purpose. The vast majority of the organization’s work must be charitable, with no more than 10% devoted to political activity.

Political activity must not be partisan or illegal.

Up until about five years ago, most of the above information was relatively unknown by charitable organizations. With a backdrop of significant defunding of various programs and organizations, various ministers and senators began making comments, such as referring to “foreign-funded radicals” providing money to Canadian charities. Some appeared to be questioning whether or not charities should be allowed to engage in any form of political activity. Much of this rhetoric was inaccurate and unnecessarily inflammatory.

The recent emphasis on auditing of charitable organizations was not accompanied by the changing of the core legislation, or by updating any antiquated definitions.

There have been increased requirements for reporting by charities, and more auditors were hired. In the context of \$250 million having been cut from the budget for tax auditing overall, in 2012, \$8 million was allocated to auditing of charities; in 2013 this had grown to \$13 million. Changes in regulations made it possible to apply earlier sanctions.

By contrast, \$15 million was allocated over five years, for auditing tax evasion via tax havens, where there may be a potential recovery of \$7.9 billion. One wonders how much might be recovered by “cracking down” on charities, and whether or not this is a prime concern of the Canadian people.

There are now 52 political activity audits into charities under way. The CRA is not permitted to release the names of organizations being audited. Seemingly, a high percentage of those being audited are environmental organizations or organizations that may have been historically critical of the government. But, without the capacity to see the full list of organizations this cannot be confirmed or denied.

Complying with these audits can be onerous for small organizations. Requirements can range from the banal to the bizarre. In one example, an organization is being asked to translate all receipts from Spanish, their language of work given that they do human rights work in Latin America, to either English or French.

KAIROS has been in audit for 18 months. The process has gone well, but there is no direction, guidance, or feedback as of yet. It is not known when feedback will occur or what it will say.

What is the way forward?

1. Charities need to live within the law boldly. If they can't live within the restrictions, they can choose to become non-profit organizations, and give up charitable status.
2. Charities should use their 10% allowance to campaign for social change. (only 444 of 85,000 charities declare that they are doing this)
3. The question of whether this auditing activity is necessary and of cost-benefit needs to be addressed.
4. There should be a call to lift the restriction on the CRA from disclosing which organizations are being audited; organizations being audited should speak out about their experiences.

In conclusion, the system needs to be modernized. We need debate and discussion towards that end: what would a modern, effective charitable system look like for Canada? A vibrant society must have a critical role in shaping policy. People need to get together and have a voice for change. Charities play a crucial role in bettering society and one aspect of that is their credible voice raised for policy and legislative change.

KAIROS believes it is being faithful to its mandate and it can function within the context of the legislation.

Notes made by David B. Clemens

Scribe's note: Resources for charities about political activities can be found on the CRA website at:

<http://www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltbl-clctvts/menu-eng.html>