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Constrained or Enabled?

The Changing Role of Canada's Civil Society in Promoting Civic Discourse

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Introduction

Civic discourse and participation is one of the most important indicators of a healthy, vibrant democratic society. In an increasingly polarized political environment, civil society organizations¹ have a critical role in fostering social cohesion, facilitating meaningful political dialogue and mediating citizens' participation in the democratic process.²

In Canada, the size and scale of the civil society demonstrates its critical role in fostering a healthy democracy. As of 2015,

there were over 86,000 registered charities that collected over \$251B in total revenue.³ In 2017, the civil society accounted for 8.5% of Canada's nominal Gross Domestic Product (GDP), totaling \$169.2B.⁴ Volunteers contributed over one-fifth of that economic value (22.3% or \$41.8B).⁵

However, this role has been highly contested in the last decade. In 2012, Canada's tax regulator — the Canada Revenue Agency — received political direction to conduct vigorous audits on the political advocacy activities of charities. Environmental charities were disproportionately targeted among the 60 charities that were audited between 2012-2016.⁶ Numerous charities engaged in extensive, costly litigation to protect their freedom of expression rights, contributing to subsequent amendments of Canada's *Income Tax Act* to allow charities to

¹ We refer to civil society in this paper to include non-profit and charitable organizations, social enterprises and other hybrid organizational forms. Where the discussion focuses specifically on the political advocacy activities of registered charities, we refer to them accordingly.

² Laforest, R. (2012). "Rerouting political representation: is Canada's social infrastructure in crisis?". *British Journal of Canadian Studies* 25(2): 181-197 at p. 193.

³ Blumberg, M. (2017). "Blumberg's Snapshot of the Canadian Charity Sector 2015". https://www.globalphilanthropy.ca/images/uploads/Blumbergs_Canadian_Charity_Sector_Snapshot_2015.pdf.

⁴ Statistics Canada (2019). "Non-profit institutions and volunteering: economic contribution, 2007-2017". <https://www150.statcan.gc.ca/n1/daily-quotidien/190305/dq190305a-eng.htm>.

⁵ Statistics Canada (2019). Note that this figure is pulled from 2013 data (the most recent available data on volunteer contributions).

⁶ Government of Canada (2017). "Report of the Consultation Panel on the Political Activities of Charities". <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/about-charities-directorate/political-activities-consultation/consultation-panel-report-2016-2017.html>.

participate in “public policy dialogue and development activities”.⁷ The Special Senate Committee on the Charitable Sector also recently released a report examining parallel issues, including the definition of “charity” and the existing regulatory process.⁸ Despite these important legislative changes and policy recommendations, charities in Canada still remain hesitant to fully embrace their important role in civic discourse.

The role of Canada’s civil society in participating in civic discourse has also changed significantly throughout history. In the 1940s, non-profit and charitable organizations were perceived as an extension of the post-WWII welfare state, promoting volunteerism, citizenship and participation in the policy development process.⁹ In the 1970s and 1980s, the sector’s role became increasingly institutionalized and federal and provincial umbrella organizations started to emerge to advocate for the sector’s collective interests.¹⁰ In the 1990s a significant retrenchment in government funding for advocacy activities — and the downloading of social service provision from federal to provincial governments — further isolated the sector’s role in promoting civic discourse.¹¹

While larger, well-resourced civil society organizations maintain a strong public presence in policy discussions in Canada, the reduction in advocacy funding largely

eroded the sector’s role as a mediator in civic discourse. Instead, most provincial and federal government departments now perceive the sector’s primary role as a service provider and source of data/evidence about community needs rather than a core participant in civic discourse.¹² Civil society organizations largely operate at the level of policy implementation rather than policy design.

These historic and modern examples shape how civil society organizations in Canada will participate in civic discourse in the future. This paper will trace these developments and identify emerging issues that may threaten the sector’s capacity to engage fully in the democratic process.

Current State

Canada’s civil society often acts as an “institutional channel” for connecting citizens and governments on key issues.¹³ This role can take several forms, including coordinating advocacy campaigns (particularly during elections), contributing to government policy consultations, collecting data, conducting research and collaborating with like-minded organizations.¹⁴ By doing so, civil society organizations provide the structure, legitimacy and organizational infrastructure for Canadians to advance their political ideas and interests.

⁷ Government of Canada (2019). “Public policy dialogue and development activities by charities”.

<https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/public-policy-dialogue-development-activities.html>.

⁸ Senate of Canada (2019). *A Roadmap to a Stronger Charitable Sector*. https://sencanada.ca/content/sen/committee/421/CSSB/Reports/CSSB_Report_Final_e.pdf.

⁹ Laforest, R. (2013). “Shifting scales of governance and civil society participation in Canada and the European Union”. *Canadian Public Administration* 56(2): 235-251 at p. 243.

¹⁰ Laforest, R. (2013) at p. 243.

¹¹ Laforest, R. (2013) at p. 244.

¹² Laforest, R. (2013) at p. 243.

¹³ Laforest, R. (2012) at p. 193.

¹⁴ Shier, M. L. & Handy, F. (2014). “Nonprofits and the Promotion of Civic Engagement: A Conceptual Framework for Understanding the ‘Civic Footprint’ of Nonprofits Within Local Communities”. *Canadian Journal of Nonprofit and Social Economy Research* 5(1): 57-75 at p. 62.

Canadians are participating in civil society organizations and associations in increasing numbers. In 2013, almost two-thirds of Canadians (65%) reported participating in a group, organization and association.¹⁵ Samara Canada — a Canadian democracy thinktank — reported that in 2019 77% of Canadians surveyed had participated in at least one civic engagement activity in the last year (e.g. donating money or volunteering for a charitable cause or working with others to solve a community problem).¹⁶

The Example of Dying with Dignity

Canada: Dying with Dignity Canada is a national non-profit organization that advocates for the end-of-life rights of Canadians and was at the forefront of the recent legal and political debate about legalizing medical assistance in dying (MAID).¹⁷ Dying with Dignity Canada operates local chapters in major cities across Canada, providing Canadians with a venue to support families with end-of-life decision-making, raise local awareness about MAID and advocate for legislative changes. Dying with Dignity Canada acted as an intervener in the recent groundbreaking Supreme Court of Canada case *Carter v Canada* and has been actively involved in provincial and national-level policy advocacy. Dying with Dignity Canada is a compelling example of how civil society organizations in Canada have adapted to the changing landscape. In 2015, the organization lost its charitable status due to a Canada Revenue Agency political

activity audit. The loss of charitable status allowed the organization to engage in unrestricted advocacy activities but prevented the organization from receipting tax-deductible donations. In 2018, the Canada Revenue Agency reinstated the organization's charitable status and the organization continues to engage in advocacy activities in a manner that is compliant with the new requirements of the *Income Tax Act*.¹⁸

Despite these high levels of citizen engagement, significant reductions in advocacy funding in the last several decades and the “advocacy chill” created by the Canada Revenue Agency political activity audits has significantly reduced the sector's capacity and willingness to contribute to civic discourse. While citizens may participate in civil society organizations, they are increasingly relying on more decentralized avenues to participate in civic discourse (e.g. social media, crowdfunding campaigns and informal network-based community organizing initiatives).¹⁹

There are also significant differences in the sector's role in civic discourse in English and French Canada. Quebec's civil society includes a vibrant sector of cooperatives and community economic development organizations that are collectively described as the “social economy”.²⁰ The social economy emerged from a long history of community mobilization and collective action

¹⁵ Statistics Canada (2015). “Civic engagement and political participation in Canada”. <https://www150.statcan.gc.ca/n1/en/pub/89-652-x/89-652-x2015006-eng.pdf?st=WQTztKTm> at p. 4.

¹⁶ Samara Canada (2019). “2019 Democracy 360: The Third Report Card on How Canadians Communicate, Participate and Lead in Politics”. https://www.samaracanada.com/docs/default-source/reports/2019-democracy-360-by-the-samara-centre-for-democracy.pdf?sfvrsn=81a072f_6 at p. 26.

¹⁷ Dying with Dignity Canada (2019). “About”. <https://www.dyingwithdignity.ca/about>.

¹⁸ Dying with Dignity Canada (2019). “Charitable status Q&A”. https://www.dyingwithdignity.ca/charitable_status_faq.

¹⁹ Longo, J. “The evolution of citizen and stakeholder engagement in Canada, from Spicer to #Hashtags” *Canadian Public Administration* 60(4): 517-537 at p. 518.

²⁰ Quebec's *Social Economy Act* defines “social economy” as “all the economic activities with a social purpose carried out by enterprises whose activities consist, in particular, in the sale of goods and services” (*Social Economy Act*, CQLR c E-1.1.1, s 3). For more information, see Chantier de l'économie sociale's website: <https://chantier.qc.ca/discover-social-economy/definition/?lang=en>.

in Quebec and remains a significant driver of economic development and job creation.²¹ As a result, the Government of Quebec has regarded the social economy as a valued stakeholder and in the co-design and development of public policy. Quebec's Ministry of Employment, Labour and Social Solidarity earmarks proportions of grant funding for advocacy purposes — a commitment to strengthening the sector's advocacy capacity that is very unique across Canadian provinces and territories.

Emerging Issues

While Canadians are changing the way they participate in civic discourse, civil society remains a very important avenue for meaningful engagement. Citizens organizing independently often fail to address the larger structural, systemic issues within a political system²²; civil society organizations often provide a more strategic, systems-level perspective to achieve meaningful policy change. This section explores some of the key barriers impacting the sector's capacity to engage fully in the democratic process.

Lack of institutionalization of the sector's role in civic discourse: In the early 2000s, the Government of Canada launched the Voluntary Sector Initiative, a \$94.6M national policy reform initiative for the social sector. While the Voluntary Sector Initiative provided a strong framework for subsequent policy reform efforts, it failed to clearly institutionalize the sector's role in civic

discourse and policymaking. The Code of Good Practice on Policy Dialogue was developed as a principles-based document to guide government-sector collaboration, but it remains non-binding.²³

There exists a high degree of institutional fragmentation across provincial and federal governments due to Canada's federalist system. This has created confusion and uncertainty, as civil society organizations are challenged to find meaningful ways to engage with government officials in the policy process.²⁴

Shifting norms around policy advocacy:

The sector's role in policy advocacy is a highly politicized issue in Canada. After nearly a decade of "advocacy chill", civil society organizations in Canada are only now beginning to adapt to a more open, transparent environment for policy advocacy due to the recent *Income Tax Act* amendments. However, there is a significant amount of misinformation about the scope of "public policy dialogue and development activities" articulated by the Canada Revenue Agency - particularly during election periods when advocacy activities may resemble more partisan activities. Some sector leaders have expressed concerns that the *Income Tax Act* amendments are overbroad and may create confusion in the future for organizations that engage in both lobbying and advocacy activities.²⁵

Growing funding constraints & challenges:

Civil society organizations in

²¹ Mendell, M. & Neamtan, N. (2008). "The Social Economy in Quebec: Towards a New Political Economy". University of Toronto Social Economy Centre. https://sec.oise.utoronto.ca/english/project_outputs/project33_February09Report.pdf.

²² Laforest, R. (2012) at p. 193.

²³ Government of Canada (2002). *Code of Good Practice on Policy Dialogue*. http://www.vsi-isbc.org/eng/policy/pdf/codes_policy.pdf.

²⁴ Cave J., Lalande, L. (2019). "Breaking the Inertia: Repositioning the Government-Sector Partnership". Toronto: Mowat Centre. https://munkschool.utoronto.ca/mowatcentre/wp-content/uploads/publications/181_EE_breaking_the_inertia.pdf at p. 8.

²⁵ Senate of Canada (2019). "A Roadmap to a Stronger Charitable Sector". https://sencanada.ca/content/sen/committee/421/CSSB/Reports/CSSB_Report_Final_e.pdf at p. 87.

Canada are facing significant funding challenges in terms of how much funding is available and the types of restrictions that are placed on the available funding. Charitable giving is on the decline and core funding for administrative and operational expenditures is difficult to acquire. Instead, government and philanthropic funders have demonstrated a growing preference for time-limited, program and project-based grants.²⁶ Some provinces are showing greater interest in commissioning²⁷ and individualized²⁸ funding models. These types of funding models place limits on the amount of funding organizations can use toward administrative expenses.

Notably, policy advocacy is an ongoing administrative expenditure for organizations because they must monitor policy developments, conduct research and engage volunteers and members in their work. These changing funding models and the erosion of core funding have had an important unintended consequence for civic discourse — they reduce the capacity for civil society organizations to participate in the policy development process and engage in meaningful dialogue.

The Example of the Ontario Government: In 2019, the Government of Ontario announced budget reductions of approximately \$185 million across several

ministries that work with the civil society.²⁹ These ministerial budget changes resulted in deep cuts to civil society organizations and specifically the cancellation of core funding to non-profit public policy thinktanks in the province. There are very few philanthropic sources of funding in Canada for social policy research. At least three non-partisan thinktanks, including one with a specific focus on the civil society, have since closed in the province.³⁰ These closures come during the rise of populist movements, and at a time when political rhetoric — rather than evidence — is increasingly influencing the policymaking process. Decreasing or eliminating support for this work can weaken the policymaking process in Canada.

Declining rates of volunteerism and charitable giving: The volunteer rate as a proportion of the Canadian population appears to be declining in Canada, with only 43.6% of Canadians volunteering in 2013.³¹ The rate of charitable giving (based on receiptable donations filed with annual income taxes) also appears to be increasingly instable³², largely due to the rise of informal charitable giving opportunities such as crowdfunding platforms. These trends suggest that Canadians are shifting their civic participation to more non-traditional avenues. However, civil society organizations continue to rely on volunteers and charitable donations to respond to

²⁶ Lalonde, L. & Cave, J. (2020). "Weathering the Storm: Building Financial Health and Resilience in Canada's Nonprofit and Charitable Sector". Ottawa: Public Policy Forum.

²⁷ A process of decision-making that begins with the robust definitions of needs and desired outcomes; governments engage third parties in solution design and delivery, seeking to optimize outcomes by making the best use of all available resources.

²⁸ A portable package of funds allocated for a particular person that facilitates control over how they purchase services to support their needs; the funds can be administered by the service user, a service provider or an intermediary organization that assists in the management of the funds. Individualized funding is often described as "passport," "voucher," or "direct" funding.

²⁹ Ontario Nonprofit Network (2019). "Provincial Budget 2019". <https://theonn.ca/our-work/our-financing/provincial-budget-2019/>.

³⁰ These organizations were the Mowat Centre, the Institute for Competitiveness & Prosperity and the Martin Prosperity Institute.

³¹ Conference Board of Canada (2018). *The Value of Volunteering in Canada*.

https://volunteer.ca/vdemo/Campaigns_DOCS/Value%20of%20Volunteering%20in%20Canada%20Conf%20Board%20Final%20Report%20EN.pdf at p. 5. Note that 2013 was the last comprehensive survey year in the *General Social Survey*.

³² Rideau Hall Foundation and Imagine Canada (2018). *30 Years of Giving in Canada*.

http://www.imaginecanada.ca/sites/default/files/30years_report_en.pdf?pdf=30-Years-Main-Report at p. 5.

increasing demand for programs and services and advocate for meaningful, systems-level policy change to address growing inequality.

What Next?

The Future of Civic Discourse in Canada

These emerging issues demonstrate that Canadians are not reaping the full benefits of a vibrant, engaged civil society that is an active participant in civic discourse. In contrast, policy advocacy and civic engagement has been embraced as a core function of the civil society in the United Kingdom, Australia and the European Union.³³ Unfortunately, the Government of Canada still adopts a regulatory — and sometimes punitive — approach to monitoring the sector's advocacy role, rather than recognizing and enabling the sector as a key contributor to the policy development process.

The Government of Quebec's approach to co-producing public policy with the sector is a promising model that the rest of Canada could emulate at the provincial/territorial and federal level. Civil society organizations have valuable, untapped expertise to contribute to the process of identifying social and economic issues, setting priorities, allocating budgetary resources and testing potential policy responses. Democratizing these processes and strengthening the sector's capacity to participate would allow the policy development process to be more inclusive, grassroots and citizen-led — a win for all Canadians.

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The Mowat Centre's Not-for-Profit Research Hub (Mowat NFP) was an independent research hub of the Mowat Centre, an applied public policy think tank located at the Munk School of Global Affairs and Public Policy at the University of Toronto.

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³³ Phillips, S.D. & Rathgeb Smith, S. (2014). "A Dawn of convergence? Third sector policy regimes in the 'Anglo-

Saxon' cluster". *Public Management Review* 16(8): 1141-1163 at p. 1151.