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## **WHY CCBR IS NOT A REGISTERED CHARITY**

CCBR is a non-profit society but it is not a registered charity. While organizations that have a political purpose do not qualify for charitable status in Canada, groups that “advance education” may receive such status. Therefore, since CCBR conducts strictly educational, and not political, pro-life activities, it is understandable that pro-lifers assume that CCBR is a registered charity. The purpose of this document, then, is to explain why that is not the case.

### **Executive Summary**

The precedents set by the Canada Revenue Agency (CRA) and by the Federal Court of Appeal against other non-profit groups, as well as independent advice obtained from a knowledgeable lawyer and veteran pro-lifers, make it clear that CCBR would be denied in an attempt to register as a charity. Because charitable status is not a necessity for effective pro-life activism, CCBR will not spend its resources on a futile application nor on a legal challenge of the system.

### **Background**

In the early days of CCBR’s establishment, we were advised by experienced pro-life leaders that we would not succeed in getting charitable status. Therefore, we did not try. As CCBR grew and as more donors inquired as to whether we had status, we concluded that it would be better to try and fail than to not try at all. As we began our research for an application, however, it became very evident that the advice given early on was accurate. We learned that there are at least three precedents that make it unlikely that CCBR would be allowed to register as a charity:

#### **1. The precedent of Human Life International Canada (HLIC)**

In 1984, HLIC was granted status as a charitable organization. Their registration, however, was revoked several years later. The impetus for this was that HLIC had distributed a graphic abortion postcard to members of Parliament, as well as organized a march on Parliament Hill. Although both of these activities seem to be directly political, the decision in this case seems to define “political” much more broadly than that. Lawyer Laird Hunter explains the situation:

After conducting an audit, Revenue Canada [now the Canada Revenue Agency] advised HLIC that its activities could not be justified under either of the relevant [sic] recognized categories of charity: the advancement of education, or ‘other purposes beneficial to the community’. It was the Department’s view that ‘an organization such as HLIC which espouses a specific cause and seeks to sway the public to its way of thinking, would not qualify as charitable under the category of advancing education.’

In a letter to HLIC, the Department observed that the courts had found that purposes related to promoting one side of a controversial issue are not charitable at law. Moreover, it was the Department’s position that the courts had established that activities designed essentially to sway public opinion on a controversial social issue are not charitable, but are political in the context of the law of charities.

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...the HLIC case is the leading decision on what is permissible advocacy for charities. Two points can be made:

1. The Federal Court of Appeal has changed the limitation on the range of purposes that have been considered political from English law precedents. In addition to the earlier restraint, **the law in Canada is now that activities primarily designed to sway public opinion on social issues are not charitable activities** [emphasis added].

2. Aside from the question of whether or not the degree of limitation the Court has found is a good thing, the Court did not develop any clear guidelines as to what constitutes swaying public opinion nor what is a social issue. As a result, Revenue Canada is now put to the extremely difficult task of trying to give practical meaning to the Court's ruling. And for many charities, a pall has been cast over much of their activity without any clear direction as to whether what they do is permitted.<sup>i</sup>

The precedent set by this case works against CCBR because its purpose is to change public opinion on the very controversial issue of abortion.

## 2. The precedent of The Challenge Team

In 2000, LifeSiteNews.com reported that a chastity organization was denied charitable status:

Exemplifying the profound prejudice of the courts in Canada, the Federal Court of Appeal rejected the appeal of an abstinence-only educational youth group to be granted charitable status. The Challenge Team's appeal was denied for the same reason that Revenue Canada denied them charitable status in the first place - they do not promote alternatives to chastity such as condoms and the morning-after pill.

Harold Visser, the leader of the Challenge Team, represented the group in court arguing that they should be considered an educational group since they have traveled the country since 1992 teaching chastity as safe and healthy sexuality. However, in a 2-1 split decision the courts preferred the arguments of Department of Justice lawyer, Roger Leclair, who argued that they should be denied the status because they did not present other "options." When questioned as to the other options should be, Leclair responded: "Sexual activity using the pill, and now the morning-after pill, and prophylactics of all kind, and apparently there are now injections." (Glen McGregor, The Ottawa Citizen, Apr. 3, 2000)<sup>ii</sup>

If a chastity organization is going to be denied status because they do not provide alternatives to one approach, it is reasonable to believe that CCBR would be denied status because we do not provide the alternative to "no abortion" (which would be abortion).

## 3. The precedent of Lutherans for Life-Canada (LFL-C)

In 2006, LFL-C applied to the Canada Revenue Agency for a charitable tax number to assist with its educational work. LFL-C learned that its request had been rejected on a second appeal. Here is the background as reported by Joanne Byfield:

LFL-C based its request under CRA's rules on the advancement of religion and the advancement of education. In its rejection of the group's request, the CRA said that 'we conclude that it [LFL-C] main object is pro-life advocacy and not advancement of religion as defined by the courts.' On the issue of educational advancement, the group was disqualified

because 'educational activities do require making an unbiased presentation of the facts according to the SCC [Supreme Court of Canada].'

The CRA upheld the earlier rejection by the Charities Directorate after reviewing LFL-C's printed materials. 'We agree with the CD that these activities and materials present opinions on controversial issues with a certain degree of bias and persuasion that places the organization's goals within the political scope in the broad sense of the term. These activities are not charitable and require more than 10% of the charity's resources.'<sup>iii</sup>

If CCBR were to apply for charitable status, it would be for the same reason that LFL-C did: for the advancement of education. If, however, the CRA rejected LFL-C's application because their "activities and materials present opinions on controversial issues with a certain degree of bias and persuasion," it is almost certain that they would draw that same conclusion about CCBR's activities and materials.

### **Review of the Charitable Application Requirements**

Mindful of these negative precedents, CCBR reviewed the 14-page application form ("Application to Register a Charity Under the *Income Tax Act*") as well as the accompanying 27-page document that explains the application form. The latter document states that "If an organization intends to influence the opinion or actions of the public toward one side of a controversial issue, it is not advancing education in the charitable sense. For this reason, an advocacy group would not qualify as a charity."

Submitting a broadly-worded application is out of the question, as that same document says "an organization's objects must be expressed in precise rather than broad or vague terms." It also says that in describing activities, "the organization should describe in full detail ... the charitable activities it will carry out itself..."

### **Legal Advice**

With this information in hand, we consulted a lawyer whose firm routinely makes charitable applications for non-profit groups. In short, he said that unless we want to change our tactics, it would be a waste of time to apply. Not only that, but if we were to use his firm to make the application, it would cost approximately \$3000 to \$5000.

### **The Status of Other Canadian Pro-life Organizations**

We contacted pro-life organizations in different provinces to learn how they obtained charitable status or why they did not have it. We discovered that some pro-life organizations who *do* have charitable status obtained it decades ago, and we were informed that other pro-life organizations who have *tried* to get charitable status in the last ten years have failed in doing so.

### **Conclusion and Commentary**

The conclusion compelled by the above precedents and advice is that an attempt to apply for charitable status would be a waste of both time and money. CCBR's board of directors has, therefore, formally decided against making such an application.

But isn't this situation in Canada unfair to pro-life groups and, ultimately, to the public? Certainly. Joanne Byfield neatly sums up the problem:

It is disappointing that Canada's Charities Directorate continues to exhibit this bias against pro-life groups. Planned Parenthood, under whatever name it calls itself these days, continues to

enjoy charitable status. It also receives generous grants from all levels of government. The group promotes abortion, lobbies against crisis pregnancy centres and encourages sexual activity among teens. Canadian taxpayers are forced to support these activities on the basis of decisions made largely by bureaucrats at various levels of government.

The United States has a much fairer system of handling charitable organizations. It does not pick and choose based on the biases of the government or revenue agency. There, as long as groups do not lobby for or against a particular candidate during an election campaign, they can obtain charitable status. This produces a much healthier and balanced debate among the competing views on any subject.<sup>iv</sup>

So, given this inequality and the fact that CCBR exists to fight injustice, shouldn't CCBR attempt to challenge the CRA to institute a more equitable, unbiased system for recognizing charities? Certainly not. CCBR does not exist to fight the bias within the Charities Directorate; it exists to fight the more fundamental evil of abortion.

Yes, it is grossly unfair that CCBR cannot obtain charitable status, but the inability to issue tax receipts does not hinder CCBR from changing hearts and minds on the abortion issue. CCBR therefore refuses to be distracted from its commitment to combating the deeper injustice of abortion. Observant readers may note that CCBR deems freedom of expression to be worth fighting for. That is because it is necessary for pro-lifers to have their own voices *in order* to be a voice for the unborn. In other words, CCBR cannot function if it cannot speak. But CCBR *can* function even if it cannot give out tax receipts.

For those who might be tempted to question CCBR's legitimacy because it is not recognized as a charity by the CRA, we would caution them to recall Ms. Byfield's above observation that the CRA continues to permit Planned Parenthood ("under whatever name it calls itself these days") to enjoy charitable status while it promotes the butchery of unborn babies. We would also remind them that the CRA is an agency of a government that has for decades refused to acknowledge and protect the inalienable human rights of unborn children. We therefore believe that the CRA and the Canadian government are, at the very least, poor guides as to which organizations are worthy of pro-lifers' financial support.

Furthermore, is it any wonder that a government which permits the ongoing slaughter of unborn children would also permit the ongoing discrimination against those who wish to save these children?

It is a credit to CCBR's benefactors that, when informed about its lack of charitable status, virtually none of them have said that being unable to receive a tax receipt would affect their willingness to support our work. We are grateful that these generous individuals place a higher priority on funding effective pro-life work than on receiving the perk of a tax credit. We encourage all who oppose abortion to make saving babies their top priority as well.

After all, when we consider that the vast majority of abortions are motivated by selfish financial and social concerns, we should take care that our decisions to give or withhold funding from pro-life groups are not motivated by similar reasons.

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<sup>i</sup> "Could This Be Controversial?" [www.law-nonprofit.org/define4.htm](http://www.law-nonprofit.org/define4.htm)

<sup>ii</sup> "Court denies charitable status for abstinence-only group,"

<http://www.lifesitenews.com/ldn/2000/apr/00040402.html>, April 4, 2000

<sup>iii</sup> "Lutherans for Life denied charitable status," The Rose, December 2006

<sup>iv</sup> Ibid.