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Canada: Charity Rules Violate Freedom of Expression

Canada's legal framework for charities is both outdated and unduly restrictive, a fact which became apparent when the regulator, the Canada Revenue Agency (CRA), launched a spate of charity audits a few years ago. The current Canadian government has signalled an intention to revise the rules in this area and, as part of that, the CRA is holding a consultation on the rules. CLD has provided a detailed Submission to that process, calling for extensive reforms.

"We very much welcome the fact that the government is committed to reviewing the rules governing charities", said Toby Mendel, Executive Director of CLD. "As incredible as it might seem, the definition of a charity is based on an early 17th Century British law and charities are largely precluded from engaging in public policy debates."

CLD's key recommendations for reform include the following:

- A list of categories of charitable purposes, which is the main way of defining a charity, should be set out in legislation, following a public consultation, while the courts should retain the power to add additional categories.
- The absolute ban on direct support for political parties and candidates should be retained, but the ban on indirect support should be replaced by a more general requirement to be politically balanced and impartial.
- The strict limits on charities engaging in advocacy for a change in the law or policy, or a government decision should be abolished. Instead, charities should only be required to devote most of their resources to activities which support their charitable purposes.

CLD calls on the relevant Canadian authorities to conduct a broad consultation on the rules governing charities and then to move to amend the rules in line with our recommendations above.

The Submission is available at: www.law-democracy.org/live/wp-content/uploads/2016/12/CLD-Charities-Submission.Dec16.pdf.

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