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Strengthening the Third Pillar of the Canadian Union

AN INTERGOVERNMENTAL AGENDA FOR CANADA'S CHARITIES AND NON-PROFITS

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Strengthening the Third Pillar of the Canadian Union: An Intergovernmental Agenda for Canada's Charities and Non-Profits
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Executive Summary

Canadian governments have made significant efforts over the past two decades to strengthen the pan-Canadian economic union, as well as the social union. These have produced tangible results for Canadians. For example, interprovincial trade barriers have been falling and social benefits are now more portable between provinces. However, we have not expended similar effort on the third pillar of the Canadian union—the non-profit sector.

Some provinces, including Ontario and British Columbia, are putting in place measures to put charities and non-profits on firmer financial footing. This includes allowing them more ways to generate revenues through entrepreneurship or “social enterprise.” Yet these strategies are not consistent with some federal regulations. Canada’s charities are caught in the crosshairs of Canadian federalism.

This is a quintessentially Canadian problem. Provinces have constitutional responsibility over charitable and provincially incorporated non-profit entities, while the federal government has authority over their taxation benefits under the *Income Tax Act*. Under this confusing arrangement, the Canada Revenue Agency’s (CRA) regulatory activity and the federal *Income Tax Act* are proving a barrier to many of the activities that some provinces are trying to nurture.

Overlapping federal and provincial responsibilities and barriers are commonplace in Canada, but in response, governments have established processes where Ministers and public servants meet to coordinate their activities and reduce the number of overlapping and conflicting regulations.

No such effort exists with respect to the non-profit sector. There is no process underway to streamline federal-provincial roles and to coordinate policy, and there is no venue for provinces and territories to discuss issues affecting the sector, let alone to begin the process of lowering interprovincial barriers to a more sustainable non-profit sector.

Three main recommendations emerge from this analysis. First, the federal government should consider legislative changes (namely to the *Income Tax Act* and the bureaucratic interpretations of that *Act*) to allow charities and non-profits more flexibility in how they use and generate funds. This would encourage provincial efforts to strengthen the sector. The UK experience represents a promising model.

Second, the federal and provincial/territorial governments should establish a formal intergovernmental process to coordinate their policies and approaches to the sector.

Third, provinces and territories should establish their own process to harmonize rules and regulations affecting the sector, similar to the processes they have established to facilitate greater labour mobility between provinces.

STRENGTHENING THE THIRD PILLAR OF THE CANADIAN UNION

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There is strong evidence to suggest that Canada's charities and non-profit organizations are facing a profound and growing sustainability challenge. Government funding is in decline and charitable donations have fallen sharply with the recession. At the same time, governments and citizens are increasingly relying on the sector to meet societal demands that governments alone cannot.

Many charities and non-profits—as well as some provincial governments (notably Ontario and BC)—are exploring the potential of social enterprise as one means of helping to address this sustainability challenge. However, the capacity of charities and non-profits to pursue social enterprise, as well as other options for enhanced sustainability, is significantly affected by the policy and regulatory environments in which they operate.

Ideally, policy and regulatory frameworks governing the sector would enable innovation and entrepreneurship, especially with respect to opening up new sources of earned revenue. Currently, however, charities and non-profits struggle with a confusing and onerous patchwork of different provincial rules and regulations across the country. They also face increasingly restrictive federal regulatory constraints on their ability to generate new sources of revenue through social enterprise.

Sector progress is further impeded by inter-ministerial fragmentation at the federal and provincial-territorial (FPT) levels. With no designated ministers or departments assigned clear leadership for non-profit sector issues, and no process or forum for FPT governments to collaboratively engage on sector issues, charities and non-profits are left shuttling from minister to minister, and government to government, in an effort to bring some measure of coherence and shared purpose to the policy and regulatory regimes in which they operate.

This current state of policy neglect and dearth of regulatory coordination among FPT governments is a classic by-product of Canadian federalism. However, it has real and potentially negative consequences for Canadians who increasingly rely on charities and non-profits to help meet the needs of an aging population, address environmental

sustainability challenges, maintain social cohesion in the face of increasing diversity, and support the cultural, recreational, and spiritual life of communities.

The Mowat Centre interviewed two dozen government and non-profit sector leaders and reviewed relevant literature to determine the extent of the sustainability challenge facing Canada's non-profit sector, the degree to which regulatory confusion is a barrier to resolving this challenge, and ideas for resolving the current regulatory logjam.

Our findings suggest that FPT governments should make the sustainability of Canada's non-profit sector an explicit policy goal and establish a joint process to create a more harmonized and enabling policy, regulatory, and tax environment conducive to this goal. The paper concludes with some initial suggestions to this end.

WHY THE NON-PROFIT SECTOR MATTERS

The agenda proposed above is an ambitious and challenging one, from a political, legal, and technical perspective. For this reason, it is helpful to consider why it is so important.

Canada's non-profit sector is one of the largest in the world, comprising over 161,000 charities and non-profits (Imagine Canada, 2010a), and accounts for \$106.4 billion or 7.1 per cent of our national economy (Statistics Canada, 2010).¹ More than half of these organizations are governed and run entirely by volunteers (Imagine Canada, 2010a). Ontario alone has 46,000 non-profit organizations which generate revenues of approximately \$50 billion and 1 million jobs (Trillium Foundation, 2011).

In addition to making up a significant share of Canada's economy and labour market, charities and non-profit organizations are the program and service delivery partner of choice for federal, provincial-territorial, and municipal governments. In 2009, the sector delivered over \$3 billion in federal programs alone in communities across Canada and internationally (Imagine Canada, 2010a).

Charities and non-profit organizations also play a critical role in forging partnerships and bringing individuals and organizations

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together from all sectors to achieve shared public benefit goals. The private sector, as well as individual Canadians, routinely participates in thousands of such partnerships, mobilizing money, time, and people in support of community endeavors.

Canada's research community also benefits—in 2007 it received \$813 million in research funding raised by charities and non-profit organizations. The non-profit sector funds university research at levels similar to that of the private sector and, over the last 15 years, the sector's funding for university research has increased at an average rate of 7.9 per cent annually (Association of Universities and Colleges of Canada, 2008).

Finally, charities and non-profits provide one of the primary means through which Canadians collectively express themselves culturally and artistically, engage in political activity, congregate for religious purposes, participate in sport and recreation, work together to advance environmental sustainability, and deliver a broad range of community services for people in need.

In the words of Imagine Canada, the national umbrella organization for Canada's charities and non-profits, "if Canada works as well as it does as a country today, it is in no small part due to the significant economic, social, cultural, educational and environmental contributions of Canada's charitable and nonprofit organizations" (Imagine Canada, 2010a).

THE GROWING SUSTAINABILITY CHALLENGE

INCREASED DEMAND BUT DECLINING REVENUES

While facts speak to the robustness of Canada's non-profit sector and its integral role in Canadian society, more organizations are facing increasing sustainability challenges in the face of uncertain revenues and escalating service demands driven by demographic changes and exacerbated by the recent recession.

Canada is experiencing significant demographic changes as its population ages, newcomers from around the globe make up an increasing portion of its urban population, more rural citizens migrate to towns and cities, and Aboriginal youth continue to be its fastest growing population group. Together, these factors are challenging the capacity of charities and non-profits to continually adapt and respond to new and expanding community needs (Imagine Canada, 2010a).

According to recent survey research (Lasby & Barr, 2010), over half of charities experienced increased demand for their products and services and/or difficulty fulfilling their mission in the period from 2008-2010. Despite a gradually improving economy,

more charities reported higher demand in 2010 than in 2009 (54 per cent versus 45 per cent) and a higher number reported that their existence was at risk (29 per cent versus 22 per cent). These figures underscore the pressing sustainability challenges that many organizations are still experiencing as a consequence of the recent recession.

Unlike the recession, however, these challenges are unlikely to end any time soon. Charities and non-profits rely on three core sources of revenue: government funding, philanthropy, and earned income.² Of these, only earned income offers any prospect for growth over the long-term. Government funding, while relatively stable overall for the past 10 years (Statistics Canada, 2010), is broadly expected to decline in coming years as federal and provincial-territorial governments cut expenditures to reduce their deficits.

Total charitable donations are also in decline—from \$8.2 billion in 2008 to \$7.8 billion in 2009 (Imagine Canada, 2010b). This drop is largely attributed to the economic downturn and philanthropy is expected to rebound in the short-term. However, it is predicted to stagnate over the next 10-20 years, and even decline in real dollar terms, due to demographic factors (Lasby, 2011).

These indicators point to the fundamental challenge faced by Canada's charities and non-profits—how to fulfill their missions on a sustainable basis, in the face of uncertain support from governments and donors and certain growth in demand for many of their services? This raises the further question of what governments can do to ensure that these organizations continue to fulfill their vital mandates and meet growing demand.

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SOCIAL ENTERPRISE **ONE PATH TO GREATER** **SUSTAINABILITY?**

At least part of the solution to the sustainability challenge facing charities and non-profits may lie in the realm of social enterprise. Social enterprise is generally understood to mean any organization or activity that uses the market-oriented production and sale of goods and/or services to pursue a public benefit mission (Canadian Task Force on Social Finance, 2010).³

Organizations are increasingly turning to social enterprise activities as a way to increase their long-term sustainability, fund service expansions, and enhance their flexibility to respond to

community needs not addressed by government supported programs.⁴ This trend is reflected in growing earned income revenues for the core non-profit sector, which increased from \$3.08 billion to \$3.6 billion (or about 17 per cent) in the period 2005 to 2008 (Statistics Canada, 2010).⁵

While there is significant debate about the limits of social enterprise, the increasing involvement of Canada's charities and non-profits in enterprising activities has been greeted by many—including some provincial governments—as a welcome evolution in keeping with the need for greater innovation and entrepreneurship in all sectors.

Advocates point to the rise of social enterprise in countries like the UK and the US, where governments have introduced transformational changes to the policy, regulatory, and tax environments to enable social entrepreneurialism.⁶ In Australia, the national government has also recently established a Not-for-Profit Reform Council tasked with streamlining and harmonizing regulation of the third sector.⁷

There are growing calls for comparable modernization of the policy, tax, and regulatory frameworks governing Canada's non-profit sector—and not just from charities and non-profits. Following in the footsteps of leading international investment houses such as J.P. Morgan (O'Donahoe et al, 2010), Citigroup, Deutsche bank, and Prudential, Canada's financial community has begun to take an active interest in social enterprise and, more specifically, the emerging field of impact investing—mobilizing private capital for public good.⁹

PROVINCIAL-TERRITORIAL DEVELOPMENTS

The BC government has appointed a Parliamentary Secretary for Social Entrepreneurship and is consulting formally on the need for a new hybrid corporate form for social purpose businesses (BC Ministry of Finance, 2010).

In Ontario, the government has passed legislation—Bill 65, the *Not-for-Profit Corporations Act, 2010*, that removes a significant regulatory barrier to enterprising activity by charities and replaces it with a profits “destination test” that simply requires charities to apply enterprise proceeds to the fulfillment of their charitable mission (Canadian Task Force on Social Finance, 2010). The Act also provides Ontario's 46,000 not-for-profit corporations with a modernized, legal framework designed to enhance corporate governance and accountability, simplify the incorporation process, give more rights to members, and better protect directors and officers from personal liability.

SOCIAL ENTERPRISE IN THE UK

In the UK, the *Charity Act of 2006* redefined the qualification requirements for charities, established a Charity Tribunal to hear appeals from decisions of the Charity Commission, and altered requirements for registering charities.⁸ A new legislative and regulatory framework was also introduced in 2005 creating a new hybrid corporate form, the Community Interest Company (CIC), for social purpose businesses aimed at generating both financial profits and public benefits (Bridge and Corriveau, 2009). In July 2010, UK Prime Minister David Cameron further announced plans to proceed with the establishment of the Big Society Bank, a wholesale financial organization that will invest in financial intermediaries in the social investment market, increasing access to finance for social enterprise (UK Cabinet Office, 2010).

SOCIAL ENTERPRISE IN THE US

In the US, social enterprise received a significant boost with the introduction of the federal government's New Markets Tax Credit Program in 2000, which offers taxpayers a federal tax credit when they make qualified equity investments in designated Community Development Entities (CDEs). All of the qualified equity investment must in turn be used by the CDE to provide investments in low-income communities.¹⁰

Social enterprises have been able to leverage significant investment as a result of the credit. More recently, several states have also passed legislation enabling the creation of low-profit limited liability companies (L3Cs), a corporate form similar in many ways to the British CIC and designed to facilitate investment in social purpose, for-profit ventures, while simplifying compliance with Internal Revenue Service rules for program related investments by foundations.

The recently released report of the Canadian Task Force on Social Finance—developed with input from leading Canadian investors, as well as non-profit and philanthropic leaders—calls for Canada's FPT governments to play a more active role in supporting the creation of a social finance marketplace in Canada and to remove regulatory barriers inhibiting the development of a healthy pipeline of social enterprise investment opportunities (Canadian Task Force on Social Finance, 2010).

CURRENT REGULATORY IMPEDIMENTS

Social enterprise is not a panacea and cannot, alone, solve the full gamut of sustainability challenges facing charities and non-profits (e.g. growing competition for a shrinking talent pool). It does, however, represent one of the few avenues for growing the financial base of the sector and is, therefore, proving increasingly to be a compelling catalyst for regulatory change.

The Social Finance Task Force's call for regulatory reform is only the latest in a series of such calls. Discontent with the current policy and regulatory environments has been mounting since the 1990s and has been captured in the reports of various national consultations and expert panels. The Broadbent Panel in 1999, the Voluntary Sector Initiative Joint Regulatory Table in 1999, and two reports commissioned by the Department of Canadian Heritage (Drache and Boyle, 1998 and Drache and Hunter, 2000) all explored the shortcomings of the current regulatory apparatus governing the non-profit sector and made broadly supported proposals for reform. More recently, the CD Howe Institute issued its own commentary, with an updated analysis of the issues and a series of recommended solutions (Aptowitz, 2009).

The origins of the current regulatory unhappiness are arguably three-fold. First, a significant overlap in FPT responsibilities for non-profits and charities creates challenges that are not well-managed. Second, these obstacles are accompanied by a failure to harmonize regulation across provinces and territories. Finally, Canada lacks a unifying national vision and goals with respect to the sector to guide regulatory choices and trade-offs and, ultimately, who-does-what at the federal and provincial-territorial level.

With respect to the first issue, Sections 92 and 93 of the *Constitution Act, 1867* unequivocally assign jurisdiction over charities to the provinces.¹¹ As a consequence, each province has established its own legislative and regulatory frameworks with, until very recently, no attempt to align or harmonize approaches across the country.¹² National charities and non-profits that operate across provincial-territorial borders must contend with a confusing array of provincial rules and regulations, at significant cost to their efficiency and bottom line.

It can be argued that these national organizations fall within federal jurisdiction, as provinces are only granted explicit jurisdiction for charities that operate *within* their borders and because the federal government enjoys constitutional jurisdiction over all inter-provincial trade and commerce. However, the federal government has never formally embraced this position.

The federal government does, however, have a clear regulatory role when it comes to the regulation of charities under the federal *Income Tax Act*. Under the *Act*, charities enjoy tax-free treatment and the right to issue tax receipts to contributors entitling these to tax credits. These benefits are contingent, however, on compliance with Canada Revenue Agency (CRA) regulations.

Non-profit organizations are primarily regulated by the provincial or federal legislation under which they have chosen to incorporate, but they too are subject to CRA regulation under the *Income Tax Act* as a consequence of their tax-free treatment.

Despite the primary role assigned to the provinces under the Constitution, when it comes to actually regulating charities (and to a lesser extent non-profits), the CRA is the pre-eminent player. This is because, beyond putting in place basic regulatory frameworks, the provinces have largely been missing in action when it comes to playing an active role in the stewardship of the sector.

As a consequence of inadequate provincial mechanisms for the registration and oversight of charities, the CRA has assumed a gradually expanding role in this regard. While some argue the CRA's role now exceeds its legitimate purview and encroaches significantly into provincial jurisdiction (Aptowitz, 2009), other experts that we interviewed suggest that this is warranted to address a significant void in the regulatory landscape.

The CRA's expanded role and regulatory regime offers the important benefit of a single national system with consistent treatment for the sector as whole, but it is problematic in other ways. Critics argue that there is an inherent conflict of interest in the CRA serving as both the steward of the federal tax base and the arbiter of which organizations (and related donors) are invited to enjoy tax benefits that impinge on that tax base (Aptowitz, 2009).

One manifestation of this conflict is a profound difficulty in modernizing Canada's definition of charity (currently derived from the Elizabethan *Poor Law* of 1634) and the reluctance of successive federal governments to explore the establishment of an arm's length body or commission to do so. As a consequence, the notion of charity in Canada remains frozen in time with no mechanism or basis outside of the courts for it to evolve in step with Canadian social mores, priorities, and the

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aspirations of Canadians themselves. (This is in contrast to the UK, where the Charity Commission for England and Wales was empowered by legislation to modernize the definition of charity.)

It is also argued that the CRA's role has expanded into aspects of non-profit sector operations that have nothing to do at all with the *Income Tax Act*—specifically political activity, advocacy, and fundraising. While the CRA may reasonably argue that it has taken on these functions in response to public concerns and in the absence of any effective provincial response, critics argue that it has left Canada in the position of having tax administrators make *de facto* social policy decisions that determine what role civil society organizations may play in the political and policy development processes of the country (Aptowitzer, 2009).

Similarly, CRA efforts to regulate fundraising activity have been widely criticized in the sector as overly rigid and lacking in the nuance and flexibility necessary to accommodate the realities of charities of vastly different sizes and circumstances. To its credit, the CRA has responded by issuing new, more flexible and transparent guidance for fundraising by charities and, played an instrumental role in Finance Canada's decision to rescind the largely unworkable disbursement quota in 2010.^{13,14}

However, the question remains whether CRA regulation of this and other aspects of charity and non-profit operations not directly linked to the administration of the *Income Tax Act* is the optimal approach, given the need to move from a traditional regulatory role (safeguarding the interests of donors and taxpayers) to a broader, more enabling approach that safeguards the public interest *and* enhances the overall sustainability of charities and non-profits, and the sector as a whole.

This challenge is highlighted by mounting frustration in the sector with the CRA's interpretation of policies governing social enterprise activity undertaken by charities and non-profits. Charities have long enjoyed a certain leeway with respect to social enterprise, as long as they confine themselves to "related businesses" that are "linked" and "subordinate to" their charitable purpose or "run substantially by volunteers" (Canadian Task Force on Social Finance).

However, there is no clear definition in legislation or regulation of what constitutes a legitimate linkage in this respect, leaving many charities uncertain as to the legality of their enterprises.¹⁵ Further, charities that inadvertently contravene these policies risk severe penalties, including deregistration and loss of 100 per cent of their assets. Charities can establish separate for-profit corporations to generate revenues, but this is a costly and onerous solution beyond the capacity of many smaller charities to manage (Canadian Task Force on Social Finance, 2010).

Ironically, the situation for enterprising non-profits is even more restrictive, according to a recent technical ruling issued by the CRA which stipulates that "it does not matter what the profit is used for, a 149(1)(1) cannot have any profit earning purpose" (Simon Fraser University Centre for Sustainable Community Development, 2010).¹⁶ The ruling effectively prohibits non-profit organizations from using any form of enterprising activity to generate revenues to fund programs or to improve their overall sustainability. Non-profits that fail to comply with this interpretation risk losing their qualification for tax-exemption in that year.

This interpretation has been met with dismay in the sector, as a significant portion of non-profits have been running enterprises for years in the belief that they were permitted to do so, and rely on funds generated from such enterprises to finance their programs.

The CRA's interpretation is consistent with Finance Canada policy aimed at preventing unfair competition between non-subsidized private businesses and publicly subsidized non-profit led businesses. This is a reasonable and serious policy concern, but critics argue that the CRA's solution fails to adequately balance its institutional concerns with those of the non-profit sector and the public's overarching interest in seeing a sustainable community sector that can effectively respond to escalating social needs in the decades ahead.

FINDING OUR WAY OUT OF THE CURRENT FEDERAL-PROVINCIAL LOGJAM

The current regulatory logjam, and the accompanying frustration of those seeking a more coherent, relevant, and enabling regulatory environment for Canada's non-profit sector, is unlikely to continue for much longer.

Provincial governments, with Ontario at the forefront, are beginning to pay greater attention to their jurisdictional responsibilities with respect to the sector and, in some cases, are beginning modernize policy and regulatory frameworks that are now decades out of date.

At the same time, both federal and provincial-territorial governments are beginning to look seriously at the opportunities offered by social enterprise and social finance, with a view of opening up new sources of financing for public benefit initiatives and programs, and containing the growing fiscal pressure on governments.¹⁷

On a more political level, governments will also soon be seeking ways to blunt the pain of cuts to grant and contribution programs that are likely to begin in earnest with the next budget cycle. For many governments, policy and regulatory changes that enable

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charities and non-profits to seek funds elsewhere and to avoid service cuts may seem a reasonable price for some fiscal maneuvering room.

The problem our FPT governments face, however, is how to find and implement solutions to current regulatory and policy challenges in the absence of any shared table or process through which to sort out what must be done and who is to do it. In the absence of such a table or process, it is unlikely that any shared national (i.e. FPT) vision and objectives for the non-profit sector can emerge to inform and direct the regulatory choices that must be made if we are to successfully address the sustainability of charities and non-profits and the sustainability of the services and benefits they provide.

While jurisdictions like the UK, the US, and now Australia, are introducing innovative new approaches FPT governments can learn from, very few of these can be adopted ‘as is’ in Canada. Instead, FPT governments and the non-profit sector must do the work of devising made-in-Canada approaches, which will necessarily involve making difficult trade-offs.

The critical task now, however, is not choosing which regulatory choices to make, but in devising a process that will enable Canada’s FPT governments to begin a national dialogue about what Canadians want from and for their non-profit sector, and the kinds of policy and regulatory frameworks that will enable Canada to achieve these aims.

FPT entanglement has long been a feature of Canada’s federation and, over the years, FPT governments have developed a rich repertoire of approaches when it comes to resolving policy and regulatory logjams and bringing greater coordination and harmonization to the national landscape.

While the current push to establish a National Securities Commission reminds us that coordination and harmonization are often politically and substantively challenging to achieve, Canada’s integrated national child benefits system and our system of inter-provincial agreements on labour mobility, to name just two examples, suggest the benefits are worth the effort. These can include FPT processes as well as interprovincial processes that can be undertaken without federal involvement.

Given the critical and growing importance of charities and non-profits to Canada’s social and economic wellbeing, the clear sustainability challenges this sector faces, and the growing number of leading nations that are actively responding to this challenge within their own borders, the time has come for Canada to do the same.

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Five recommendations emerge from the analysis above:

- 1. Federal and provincial-territorial governments should embrace the sustainability of Canada's non-profit sector as an explicit policy goal and address problems in the current policy and regulatory frameworks governing the sector that are barriers to this.**
- 2. Federal and provincial-territorial governments should establish a formal FPT process to address non-profit sector issues and challenges, giving particular attention to the pressing issue of sustainability.**
- 3. The federal government should undertake changes to the *Income Tax Act* and interpretations of the *Act* to allow charities and non-profits more flexibility in how they generate funds, giving attention to the example of the UK and the Province of Ontario which have liberalized rules to allow enterprising activity as long as all proceeds are directed to fulfillment of the organization's mission.**
- 4. The federal government should also aim in the longer term to limit the Canada Revenue Agency's regulatory role to administration of the *Income Tax Act*, and work with provincial/territorial governments to find an alternative means of addressing policy and regulatory decisions governing other aspects of the sector such as the definition of charity, registration of charities, advocacy, fundraising, and political activities.**
- 5. Provincial-territorial governments should establish a joint process to modernize and harmonize provincial-territorial rules and regulations affecting the sector on a national basis.**

These efforts would ideally result in consistent national treatment through an agreed upon mechanism developed in consultation with provincial-territorial governments and sector representatives, drawing on successful mechanisms from other jurisdictions.

Past efforts to strengthen Canada's economic and social union have enabled governments to modernize outmoded fiscal, policy, and regulatory arrangements, while respecting Canada's regional diversity and jurisdictional responsibilities. These efforts have yielded enormous tangible benefits to Canadians, such as improved portability of social benefits and increased labour mobility. It is within the power of our governments, once again, to strengthen the Canadian union by adopting new and time-tested processes to overcome the challenges posed by federalism—in this case, to ensure the future sustainability of Canada's charities and non-profits and to begin the urgent business of modernizing this equally critical dimension of Canada's federation. Canada's non-profit sector deserves no less. MC

ENDNOTES

1. These numbers represent the sector as a whole. The “core” sector, not including hospitals, universities and colleges, accounted for \$35.4 billion and 2.4 per cent of the economy in 2008, the latest year for which data is available.
2. The core non-profit sector (excluding hospitals, universities and colleges) relies most heavily on earned income (45 per cent of total revenues), in contrast with hospitals, universities and colleges which receive the majority of their revenue (74 per cent) from government transfers. Remaining revenues in the core sector come from government transfers (21 per cent), membership fees (17.1 per cent), donations from households (11.2 per cent), investment income (3.6 per cent), and donations from businesses (2.1 per cent) (Statistics Canada, 2010). In the United Kingdom increases in eligibility ages will be phased in over a period of 22 years, while in Germany the period is 18 years. In Australia, the phase-in period is only 8 years.
3. This covers many organizational forms—ranging from enterprising charities, non-profits, and co-operatives to social purpose businesses, which are for-profit businesses designed to fulfill a social mission.
4. According to the Ontario 2010 Social Finance Census, social venture activity has become very important. 86 per cent of non-profits with social enterprise activity indicated that they are trying to earn more of their revenues through such activities and enterprise activities contribute more than 50 per cent of the parent non-profit’s operating budget in 25 per cent of cases. Additionally, one-third of non-profit respondents without social enterprise activity have plans to start a new venture in the next two years (Social Finance Census, 2010).
5. See Table 1. Online: <http://www.statcan.gc.ca/daily-quotidien/101217/t101217b1-eng.htm>.
6. For information on changes underway in the US and UK, readers are encouraged to visit www.socialfinance.ca, as well as the websites of the US White House Office of Social Innovation and Civic Participation, the UK Office for Civil Society (formerly Office for the Third Sector), an office established by the UK government to manage issues related to the non-profit sector and Social Finance, a non-profit dedicated to establishing a social finance marketplace in the UK.
7. Announced in December, 2010, the Australian Not-for-Profit Sector Reform Council has been charged with: examining the scope of a national one-stop-shop regulator; providing advice on streamlining tendering and contracting processes for government funded not-for-profits; considering harmonization of federal, state and territory laws on fundraising; and supporting the implementation of the National Compact: Working Together. Source: http://www.dpmc.gov.au/nonprofit_reform_council.cfm
8. This was subsequently abolished in September 2009 and its functions transferred to the First-tier Tribunal. This was created in 2008 as part of a program, set out in the Tribunals, Courts and Enforcement Act 2007, to rationalize the tribunal system, and has since taken on the functions of twenty previously existing tribunals.
9. All members of the Global Impact Investing Network (GIIN) Investors’ Council. Source: <http://www.thegiin.org/cgi-bin/iowa/home/index.html>
10. For more information, please see the Community Development Financial Institutions Fund web page on the New Markets Tax Credit Program. Online: http://www.cdfifund.gov/what_we_do/programs_id.asp?programid=5
11. Section 92 stipulates that: “In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say...7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals” (Constitution Act, 1987).
12. The Ontario government has shared its recent reforms with other provinces in an effort to encourage greater alignment.
13. Available online at: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-028-eng.html>
14. The disbursement quota (DQ) was the minimum amount of certain income (primarily income for which a receipt had been issued under the Income Tax Act) and accumulated capital that a registered charity was required under the Income Tax Act to spend each year on its own charitable programs, or on gifts to qualified donees, such as other registered charities. The stated purpose of the DQ was to ensure that charities used the bulk of their tax receipted gifts for charitable work. It was also intended to limit charities’ fundraising expenditures and to discourage excessive accumulation of funds. It was abandoned because it proved unduly complex, imposed a costly administrative burden on charities, and was particularly detrimental to small and rural charities.
15. The CRA has a clear set of principles to guide charities, but many still find it difficult to establish whether their activities are compliant or not.
16. The full text of this technical ruling can be viewed in a web post by Mark Blumberg on the Charity Law website, online: http://www.canadiancharitylaw.ca/index.php/blog/comments/can_a_canadian_non-profit_earn_a_profit_cras_views_on_the_subject/
17. Ironically, Finance Canada officials have been actively engaging in a dialogue with social enterprise advocates even as the CRA has continued to limit social enterprise

The Mowat Centre is very grateful to the many leaders and experts from the sector and government who consented to be interviewed for this project. Their knowledge, insight and experience informs this paper and its recommendations.

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