BUILDING ON STRENGTH:

Improving Governance and Accountability in Canada's Voluntary Sector

Panel on Accountability and Governance in the Voluntary Sector

FINAL REPORT
February 1999

TABLE OF CONTENTS

Message from the Chair i
Executive Summary and Principal Recommendations ii
Acknowledgements x

1. Introduction 1

Addressing the Accountability Challenge 1
Old Commitments... 3
New Challenges 4
Purpose of this Report 7
What's in a Name: NonProfit, Charitable or Voluntary? 7
Guiding Principles 9
Defining Accountability 11
Accountability to Whom? 11
Accountability for What? 11
Accountability by What Means? 12
Organization of the Report 12

2. The First Step Toward Better Accountability: Building Capacity 14

The Need for Capacity Building 14
Toward Better Relationships and Greater Understanding 16
A Compact with Governments 16
A Voice at the Cabinet Table 17
Building Infrastructure and Skills 18
Better Research and Training 18
Improving Information Technology 18
Strengthening Intermediary Associations 19
Corporate Responsibility 20

Looking to the Sector

3. Organizational Governance and Stewardship 22

A Good Practice Guide for Effective Stewardship 23
Mission and Strategic Planning 24
Transparency and Communication 25
Structures 25
The Board's Understanding of its Role 26
Fiscal Responsibility 27
Oversight of Human Resources 27
Assessment and Control Systems 28
Planning for Succession and Diversity 29

Public Reporting on Good Governance 30
Required Reporting: The Basics 30
Requirements for Larger Organizations 31
Accreditation 32
Conclusion: Toward More Effective Stewardship 35

4. Program Outcomes 36

What is Outcome-based Assessment? 36
Identifying Outcome Goals 37
Developing Measures and Collecting Data 37
Disseminating and Using Results 39
Recommendations 39
To the Voluntary Sector 39
To Funders 40
Collaboration within the Sector 41
Conclusion: Right Balance 41

5. Fundraising 42

Ensuring Ethical Fundraising 42
Government Regulation 44
Self-Regulation: An Ethical Code for Fundraising and Financial Accountability 45
The Conduct of Commercial Fundraisers 46
The Conduct of Professional Fundraisers 47
Educating Donors 48
Further Considerations 48

Looking to Governments

6. Access to the Federal Tax System 50

The Current Definition of Charity 51
Modernizing Access to the Federal Tax System 53
A Process 54

7. A New Voluntary Sector Commission 56

The Need for Change 56
Functions of a New Voluntary Sector Commission 58
To Whom Would the Commission's Mandate Apply? 61
A Preferred Model 61
Principles 63
Specific Features 63
Conclusion 65

8. Regulation of Financial Management 66

Current Regulation by Revenue Canada 66
Current Problems 69
Proposals for Better Regulation 70

9. The Legal Framework 73

Organizational Law 73
Reforming Legal Frameworks 74
Directors' Liability 75

10. Conclusion: Building on Strength 77

An Accountability Toolbox 77
Priorities for Implementation 78

Summary of Proposals: Addressing Different Audiences 80

Notes 94

Appendix I: The Consultation Process 99

Appendix II: Tools for Better Governance and Accountability 103

Example of a Code of Ethical Behaviour 103
Approaches to Outcome-based Performance Assessment 104
Canadian Centre for Philanthropy's Code of Ethical
Fundraising and Financial Accountability 107

Appendix III: Biographical Notes on the Panel Members 112

Glossary 118

MESSAGE FROM THE CHAIR

A stimulating journey which began fourteen months ago is now complete. After consulting hundreds in meetings and conversations from Newfoundland to Vancouver Island, after reading a great many briefs, and following several informal but serious meetings of the Panel, we present our recommendations on how to improve accountability and governance in Canada's voluntary sector.

The proposals, first and foremost, are intended for voluntary organizations. But there are also serious recommendations to governments, as well as to corporations and citizens at large. We hope they will produce their intended key results: even better governance in the voluntary sector and acknowledgment of the importance of volunteers to Canadian democracy by the federal government in accepting our proposals for a new Voluntary Sector Commission and a new democratic process for determining which organizations should qualify for taxation benefits.

We congratulate the members of the Voluntary Sector Roundtable for taking the leadership that led to this report and the J. W. McConnell Family Foundation for providing the funds needed to make it possible.

Above all, we congratulate the hundreds of thousands of Canadians who volunteer the time, energy and money necessary to create the vast range of organizations (over 175,000) that make Canadian life so much more just and stimulating than would otherwise be the case. We do have what is essential to a modern democracy: a complex and creative civil society — that they help create and recreate on a continuing basis.

Our panel has volunteered its time and thinking, but if our results prove to be both practical and innovative, it will be due in large measure to the meticulous staff work of Susan Phillips and Havi Echenberg.

Yours sincerely,

Ed Broadbent
Chair

Voluntary Sector Roundtable Panel on Accountability and Governance in the Voluntary Sector

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EXECUTIVE SUMMARY AND PRINCIPAL RECOMMENDATIONS

This report is about making a good thing better. Canada's voluntary sector, consisting of approximately 175,000 organizations, is remarkably strong. It plays a central role in building vibrant communities from coast to coast, providing services to Canadians ranging from little league to home care, offering development support to peoples worldwide, and engaging citizens in the democratic life of the country. By participating in voluntary organizations, people learn the skills of citizenship and build bonds of mutual trust, tolerance and cooperation. As well as contributing to a strong social fabric, the voluntary sector makes an enormous contribution to the country's economic health: when institutions of higher learning and hospitals are included, it provides over 1.3 million jobs, and has total revenues and assets that make it comparable in size to the entire economy of British Columbia.

At the end of the millennium, voluntary organizations are facing an environment in considerable flux. Changing government roles, increasingly diverse populations, and new social and economic realities are requiring the sector to broaden, deepen, and adapt its approaches – and to do all of these at once. Having been a central aspect of Canadian democracy and society, it will undoubtedly remain so. In order to thrive in a dramatically changed environment and to maintain the high levels of confidence which Canadians have for the sector, it will need to ensure that its governance mechanisms are up to the task and that accountability is both effective and seen to be effective.

The Panel on Accountability and Governance in the Voluntary Sector was an initiative *of* the sector *for* the sector to aid in this process of adapting to change. In the fall of 1997, the Voluntary Sector Roundtable, an unincorporated group of national voluntary organizations, appointed six individuals, serving as volunteers, to lead a review with a threefold mandate:

- to conduct research and present draft proposals for discussion about how to promote accountability and governance in the voluntary sector;
- to get feedback from the sector by leading broad consultations;
- and to present a final report containing specific recommendations.

The goal of our report is to enhance the effectiveness and credibility of the voluntary sector in its ongoing role of strengthening civil society. In this way, our intent is to help Canadians to continue helping communities at home and abroad. Our proposals are far-reaching, and are directed to a variety of audiences, including voluntary organizations, the sector as a whole, foundations, corporations, and federal and provincial governments.

After releasing a Discussion Paper in May 1998 that contained over 40 draft recommendations, we distributed thousands of copies of it for comment and input. We held discussions with voluntary organizations and other interested stakeholders in 20 centres across Canada, from Victoria to St. John's, and received 90 briefs from organizations, as well as many written comments from individuals.

We learned enormously from this input about the challenges faced by the sector and about innovations already underway to improve governance and accountability. The deep interest and concern of the sector about the issues we raised were impressive. In general, we received broad support for most of our recommendations. But, we also heard criticisms concerning unintended impacts that some of our proposals might have had on the sector, and about some difficulties in principle with others. Two cautions were frequently repeated. First, excessively onerous regulations and reporting requirements must be avoided or the spirit of volunteerism itself could be undermined. Second, the considerable diversity within the sector must be respected and accommodated. We hope that this final report adequately reflects these messages.

ACCOUNTABILITY AND CAPACITY

Accountability is the requirement to explain and accept responsibility for carrying out an assigned mandate in light of agreed upon expectations. It is particularly important in situations that involve public trust. **In proposing ways in which accountability might be improved, we recognize that extensive accountability already exists in the sector.** Accountability in the voluntary sector is multi-layered – to different audiences, for a variety of activities and outcomes, through many different means. This multidimensional nature is the reason why improving accountability in the voluntary sector is such a complex matter.

As we consider how accountability might be enhanced, we also need to look seriously at ensuring that capacity exists to support existing and new demands within the sector. In order to do their work, voluntary organizations need resources, infrastructure, skills, knowledge, support and understanding. **Capacity building is a vital component of increased accountability and improved governance.** Without it, efforts to enhance accountability will fall short of their mark. Capacity building includes support by corporations, governments and funders for intermediary associations, research and training, technology, and board and management development. It can come in many different forms, including direct financial assistance and in-kind support such as lending expertise. In addition to directly supporting the development of infrastructure, governments need to promote greater understanding and forge new relationships with the sector. **We recommend that:**

- **both the federal and provincial governments enter into discussions with the sector to establish mechanisms, such as compacts outlining**

good practice on both sides, for promoting understanding and agreement on appropriate conduct and the future of the relationships between the sector and governments;

- the federal and provincial governments ensure that the voluntary sector has a voice in government policy making, by assigning responsibility for the sector to a specific Minister, and by creating small, horizontal policy units to help coordinate the activities of various departments engaged with the sector.

Accountability should be thought of as a toolbox, rather than as a single approach for the exercise of responsibility. In this light, we have interpreted accountability broadly to include mechanisms of stewardship by boards of directors, self-accreditation by organizations, self-regulation by the sector, and external regulation. This report first addresses what the sector and individual organizations should do for themselves to enhance accountability and, second, considers issues that can be resolved only with the participation of government.

LOOKING TO THE SECTOR

The first set of proposals is directed primarily toward the sector itself and addresses three areas in which accountability could be enhanced: organizational governance and stewardship; program outcomes; and fundraising.

Because the voluntary sector consists of self-governing organizations, effective governance and accountability begin at home – in one's own organization, no matter how small or large. We have developed a code of good governance practices that would require an organization's board of directors to take active responsibility for eight key tasks:

- ensuring the board understands its responsibilities and avoids conflicts of interest;
- undertaking strategic planning aimed at carrying out the mission;
- being transparent, including communicating to members, stakeholders and the public, and responding appropriately to requests for information;
- developing appropriate structures for the organization;
- maintaining fiscal responsibility;
- ensuring that an effective management team is in place and providing oversight of human resources;
- implementing assessment and control systems; and
- planning for the succession and diversity of the board.

Although this code could be constructively adapted by all voluntary organizations, whether registered charities under the *Income Tax Act* or not, there are some specific responsibilities that must apply to registered charitable organizations. **Every charity should be required to provide certain information to the federal government about its governance, programs and finances; adhere to a code of ethical fundraising as developed by the Canadian Centre for Philanthropy, or one similar in principle that is publicly available; and practice transparency by responding appropriately to complaints and requests for information.**

In terms of public reporting, there should be differential requirements for small charities (defined by us as those with annual operating budgets of less than $200,000) and for larger ones. Only larger organizations should have to indicate specifically how all of the eight tasks of the good governance code are met. For both large and small organizations, however, we stress that our emphasis is on disclosing information about governance, rather than attempting to force all voluntary organizations to govern themselves in exactly the same way. This whole process of improving and reporting on governance could be seen as a form of self-accreditation which we think has both merit and rigour.

Assessment of program outcomes is an important way for an organization, its funders and the public to understand how well it is accomplishing its goals. Organizations are increasingly seeking ways to understand the impact of their work and are increasingly required by funders to report on this impact. Despite certain practical matters associated with implementation, **we support the principle of outcome-based assessment of programs and encourage voluntary organizations to undertake such assessments. However, we also sound an important note of caution to funders and governments.** Requiring outcome-based performance measurement in an overly simplistic manner or without investment in adequate capacity to support it will almost certainly lead to more harm than good.

Fundraising is often the most visible of the voluntary sector's activities and is an important means by which voluntary organizations build relationships with their constituencies. We examine two ways of promoting greater ethical practices in fundraising: through government regulation and self-regulation by adhering to codes of ethical fundraising. Although not opposed to government regulation of fundraising, we recognize the enormous problems of enforcement and look to voluntary codes and self-regulation to supplement some basic government rules. **We recommend that as a condition for registration under the federal tax system, charitable organizations be required to adopt the ethical fundraising and financial accountability code developed by the Canadian Centre for Philanthropy, or an equivalent code, through formal resolutions of their boards, and to report publicly on so doing.** In order to ensure that for-profit commercial fundraising companies which actually collect the monies raised are honest in their dealings with voluntary organizations, they should be licensed and bonded by provincial governments.

LOOKING TO GOVERNMENTS

Beyond changes the sector itself can make, we address four issues that require government intervention: access to the federal tax system; a new Voluntary Sector Commission to support and develop greater capacity and accountability within the sector; regulations for financial management; and the legal framework.

Our concern with access to the tax system stems from the difficulties presented by the current common law definition of "charity" and the process of registration under the *Income Tax Act*. Two categories of organizations enjoy the benefits of the tax system: nonprofits, which are largely exempt from income taxes, and charities which, in addition to this exemption, are permitted to issue receipts for donations that can be claimed by donors as tax credits. The current definition of charity is rooted in legislation that is almost four hundred years old and on legal interpretations more than one hundred years old. As a result, the determination of which organizations are allowed the financial advantages and legitimacy of being able to issue receipts for tax credits may not accord with contemporary Canadian values. To overcome this problem, the onus is placed on voluntary organizations seeking registration to challenge Revenue Canada through the courts to expand the definition. In addition, the whole process lacks transparency since Revenue Canada must treat all tax matters as confidential.

We believe that which types of organizations have access to the tax system should be decided by legislatures, rather than the courts. The characteristics of a voluntary organization that qualifies to provide receipts for tax credits under the *Income Tax Act* should be determined by Parliament *and* be subject to a statutory review at ten year intervals. We do not propose the specific content of a new definition. Rather, we suggest that a "charity-plus" model be accepted by Parliament: that is, the existing criteria of the common law definition of charity would remain. However, additional categories of public benefit organizations should be added. The process for defining the additional categories is as follows: a government-sector task force would propose a new policy; Parliament would debate and pass legislation to amend the *Income Tax Act*; and review of the additional categories would follow every ten years. An open and transparent registration process with all applications and decisions made public should be implemented. Provincial adoption of the same definition, for purposes of governance and incorporation, is strongly encouraged.

The institutional machinery governing the sector needs to be redesigned to respond better to the new realities facing both governments and the sector work. More than a watchdog to monitor the financial accountability of the sector is required to help the sector meet its full potential. We propose that the federal government create a new quasi-independent Voluntary Sector Commission to supplement the audit role of Revenue Canada which would continue in more or less its current form. The responsibilities of the Commission would be to provide support,

information and advice about best practices related to governance and accountability to voluntary organizations; collect and provide information to the public; recommend whether new applicants should be granted charitable/public benefit status; assist organizations to maintain compliance with Revenue Canada's regulatory requirements by working collaboratively with them; recommend deregistration in cases where organizations are persistently unwilling to comply with regulations; and investigate public complaints. In its advisory capacity, the Commission would be accessible to any voluntary organization that sought its assistance, but most of its other functions would focus on registered charities. Members of the Commission would be appointed by the federal government. It is imperative that the structure and work of the Commission reflect a genuine partnership model with the sector, working in a collaborative and accessible manner and drawing on the expertise of the sector in its leadership, staff and activities. A large, bureaucratic organization is neither necessary nor desirable.

Our approach to improving governance and accountability is a combination of regulation and self- regulation. External rules need to provide better, not merely more regulation. There is a clear need for improvement of existing regulations for financial management of voluntary organizations. We propose several reforms:

- different reporting requirements for large and small organizations.
- clearer guidelines on related and unrelated business, to be determined after consultation with the sector.
- reaffirmation and maintenance of the legitimacy of non-partisan political advocacy. The rules governing advocacy activity need to be clarified in ways that can be better understood, that militate against arbitrary application and that are coherent with the values of a healthy civil society.
- review of the appropriateness of the disbursement quota (the rule that 80 percent of receipted revenues of a charity must be spent on charitable purposes), including the consideration of alternatives, with an eye to ensuring flexibility.
- greater consistency in accounting practices.
- implementation of intermediate sanctions (measures other than deregistration) for non- compliance.

We also examined the legal framework within which voluntary organizations do their work, which is primarily within provincial jurisdiction. Currently, three legal forms are available for organizations: unincorporated association, charitable trust and nonprofit corporation. Each has its own benefits and restrictions. When problems arise, they do so primarily because the laws governing the use of existing forms are antiquated and do not serve the contemporary needs of voluntary organizations; and because there is considerable, unnecessary variation in the laws across provinces. The unequivocal

message from our consultations was that this legal mess needs to be cleared up. To this end, we make two primary proposals:

- the federal government expedite the work begun by Industry Canada to develop and then pass by Parliament as quickly as possible a new nonprofit corporation bill that serves the needs of the sector and accommodates its diversity;
- the provinces collaborate to develop organizational laws consistent with each other and the federal level.

Another legal issue that came to our attention is the matter of the liability of directors for the financial solvency of the organization. While recognizing the importance of such responsibility, concerns about liability are making it increasingly difficult for many voluntary organizations to attract qualified and skilled directors. Although insurance can be purchased to limit liability, increased reliance on insurance is not a solution, in our view. Instead, there is a need for governments, working with the sector and insurers, to review and limit personal liability imposed on directors.

WHERE TO BEGIN: IDENTIFYING PRIORITIES

Many of our recommendations, such as restoring and building new capacity in the sector, are for the long term. Others can be implemented during the life of the current Parliament. Although we present our recommendations as a package and believe all of them to be necessary, four actions have top priority and their implementation should begin immediately.

1. The good practice guide should be disseminated to intermediary and other voluntary organizations. Its adaptation and adoption should be a high priority for voluntary organizations to increase public confidence in their contribution and their value. Voluntary organizations are expected to report on their compliance in the context of their self- assessment, as well as take other efforts to improve transparency and accountability.

2. The creation of a new Voluntary Sector Commission by the federal government is an essential element in improving accountability and building capacity in the sector. We urge the federal government to move quickly to establish it with a goal to having it in place within a year.

3. Canada's Parliament, not judges, should decide which organizations are "charitable." The federal government, in collaboration with the provinces and the sector, should create a Task Force representing government and the sector to begin the process of establishing a democratically-determined, legislated definition of which organizations should qualify for access to the benefits of the federal tax system.

4. Both federal and provincial governments should begin to renew their relationships with the sector by entering into discussions with the sector that may lead to negotiation of a compact of good practice or creation of other means for enhancing ongoing dialogue, understanding and genuine partnership.

It is our belief that the voluntary sector is healthy and eager to continue in its many roles and forms which benefit Canadian communities and strengthen our democracy. Our recommendations to the sector itself, its funders and governments are intended to improve existing accountability and governance structures. We look forward to continuing our personal involvement with voluntary organizations and to watching governments, organizations and their funders as they respond to our proposals.

ACKNOWLEDGEMENTS

This report has been produced with the cooperation and generous assistance of many people, a process that has reflected the spirit of how the voluntary sector works. The member of the Voluntary Sector Roundtable not only showed leadership in creating the Panel, but gave us ongoing guidance by providing assistance in obtaining information and offering feedback at critical points.[1] In particular, Susan Carter of the Canadian Council on Social Development and Paddy Bowen of Volunteer Canada, who have directed this project on behalf of the VSR, have given us much of their time and the benefit of their experience. The ongoing communication and administration of our work was handled by Volunteer Canada which served as our secretariat and, in particular, we thank Stephanie Fabian who handled our demands with efficiency, grace and good humour.

The funders of this project deserve special mention. The contribution of the J. W. McConnell Family Foundation to the Voluntary Sector Roundtable was critical in enabling them to initiate and sustain our work. In addition, the Vancouver Foundation and the Muttart Foundation provided financial assistance to permit us to hold consultations in smaller centres in British Columbia and Alberta. We are particularly grateful to Richard Mulcaster of the Vancouver Foundation, Monica Patten of Community Foundations of Canada and Bob Wyatt of the Muttart Foundation for facilitating this process. When we found that we had run out of the initial printing of the Discussion paper in the first three days after its release, Human Resources Development Canada and Heritage Canada provided funding to print several thousand more copies.

The success of our cross-country consultation process is largely due to the expert and diligent work of Lynne Toupin who designed and managed the process. Special thanks are also due to the organizations who organized and hosted the roundtables for us in their communities: the Victoria Foundation; Status of Women Canada (B.C. Region) and Vancouver Status of Women; Vancouver Foundation; Central Okanagan Foundation; Prince George Community Foundation; Volunteer Centre of Calgary; Muttart Foundation; Board Development Program, Alberta Community Development; United Way of Saskatoon; United Way of Winnipeg; United Way of London & Middlesex; United Way of Greater Toronto; Canadian Council of Churches; Community Foundation of Ottawa-Carleton; Conseil de la Philanthropie; Human Development Council and the United Way of Saint John; United Way of Prince Edward Island; Halifax Metro United Way; and the Community Services Council in St. John's. In particular, we appreciate the hard work of the individuals with these organizations who made the events run so smoothly, including: Sheila Henley (Victoria); Richard Mulcaster and Sheila Brown, (Vancouver); Audrey Johnson, Jennifer Johnstone and Lorraine Cameron (Vancouver, women's organizations); MaryLynn Winkler (Kelowna); Bev Christensen (Prince George); Ross Findlater (Whitehorse); Karin Hoernig (Calgary); Heather Halpenny and Mary Jane McLaughlin (smaller centres in Alberta); Wayne Helquist (Regina); Arla Gustafson (Saskatoon); Susan Lewis and Joan Blight (Winnipeg); Andrew Moyer (London); Collette Murphy (Toronto); Suzanne Lawson, Bonnie Greene and Janet Somerville (Toronto, faith communities); Barbara McInnes and Gillian Whyte (Ottawa); René Chicoine (Montreal); Kathy Wright and Anne Driscoll (Saint John); Dorothy Griffin and Anne McMullin (Charlottetown); Joanne Linzey, Barbara Flint, Grant MacDonald and Peter Moritmer (Halifax); and Penelope Rowe (St. John's). We also thank the volunteer facilitators who ran small group

sessions and the voluntary organizations who donated space for the meetings. In preparation of the Discussion Paper, we held several informal roundtables and are grateful to Dale Cuthbertson, Liz O'Neill, Wayne Stewart, and Joanne Linzey for their assistance in organizing these meetings. Many organizations held their own discussions which they summarized for input into the Panel's work and we especially appreciate the work of Cynthia Armour of the Ontario Community Support Association who facilitated several meetings in centres across Ontario and Casey Ready of the United Way of Peterborough. Above all, we thank the hundreds of participants in our consultation sessions as well as those who submitted briefs, letters and responses to the survey for their thoughtful input. You helped in significant ways to shape – and reshape – our thinking.

In addition to the more formal consultation process, we also sought the advice of many individuals both within and outside of the voluntary sector who gave very generously of their time and expertise. The officials at Revenue Canada have been helpful and supportive of our work and we especially wish to thank Denis Lefebvre, Carl Juneau and Neil Barclay for their assistance. Others include: Russell Armstrong; Canadian AIDS Society; Donald Bourgeois, Charities and Non-Profit Law Section of the Canadian Bar Association; Blake Bromley; John Bryden, Member of Parliament for Wentworth-Burlington; Maria David-Evans, Deputy Minister, Alberta Family and Social Services; Arthur Drache, Drache, Burke-Robertson & Buchmayer; Susan Fletcher, Federal Task Force on the Voluntary Sector; Gordon Floyd and Michael Hall, Canadian Centre for Philanthropy; Konstantinos Georgaras, Industry Canada; Scott Hood, Alberta Municipal Affairs; Laird Hunter, Worton & Hunter; Roger Leclaire, Department of Justice Canada; Doug McNally, Edmonton Community Foundation; Richard Mulcaster, Vancouver Foundation; Debbie Oakley and Rosemarie Cochrane, Office of the Public Guardian and Trustee (Ontario); Coro Strandberg, Chair, VanCity Savings Credit Union; David Stein, Society for Manitobans with Disabilities; Hazel Sutherland, Grant MacEwan Community College; and William Tholl, Heart and Stroke Foundation of Canada. We apologize to those whose contribution we have failed to mention by name; your assistance was no less valuable to us.

Finally, thanks are due are to Susan Wright who managed communications on behalf of the Panel; Salvatore Strippoli who did a superb job with translation; and Colette Morin and Renelle Gauthier of More In Typo Ltd. who produced a pleasing layout for the final report in a remarkably short period of time.

Note: *Throughout the report, we have inserted quotes from the briefs that we received and from the summaries of the roundtable discussions held across the country. These quotes give a flavour, albeit selected and incomplete, of what many people said to us. They are provided for purposes of illustration and do not necessarily reflect the judgement or position of the panel members.*

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[1] The members of the Voluntary Sector Roundtable are: Canadian Centre for Philanthropy, Canadian Conference of the Arts, Canadian Council for International Co-operation, Canadian Council on Social Development, Canadian Environmental Network, Canadian Parks/Recreation Association, Community Foundations of Canada, Representative for the Faith Communities, National Voluntary Health Agencies, National Voluntary Organizations, United Way of Canada-Centraide Canada, and Volunteer Canada.

ADDRESSING THE ACCOUNTABILITY CHALLENGE

The Panel on Accountability and Governance in the Voluntary Sector was created in the fall of 1997 by the Voluntary Sector Roundtable (VSR), an unincorporated group of national voluntary organizations.[1] It was a creature born of the knowledge within the sector that organizations are facing increasing demands for accountability, as well as services: that more is being expected from them precisely at the time when their available resources have been reduced. In order to cope with an environment in considerable flux, the voluntary sector as a whole must govern itself more carefully, and account to a greater number of "publics" for money raised and spent, for results achieved, and for expectations met or not. In short, the Voluntary Sector Roundtable saw the challenges growing and the pressures rising, while the opportunity for reflection and reform was being squeezed out by pressing day to day urgencies of organizations meeting the needs of their members, clients and publics.

In that spirit, the Roundtable appointed the Panel – a group of six individuals, ourselves serving as volunteers – requesting that we carry out a threefold mandate:

- conduct research and review current governance and accountability practices within the voluntary sector;
- bring forward a series of draft recommendations in a discussion paper and, by leading a broad consultation, get feedback from voluntary organizations across Canada; and
- produce a final report making specific recommendations to promote effective governance and accountability in the sector.

The Panel's objective is clear: to strengthen the voluntary sector by helping the sector articulate its challenges relating to governance and accountability, and developing some approaches to meeting them. To this end, our work has been conducted in a manner independent from both the VSR and government, although we have engaged in extensive discussions with each.

The discussion paper which was released in May 1998 contained more than forty recommendations, directed at multiple audiences: the sector itself; its funders and donors; corporations; and federal and provincial governments. The paper was widely distributed to hundreds of organizations and individuals, and panel members then participated in direct consultations with the sector in twenty centres from coast to coast and received more than 90 briefs from organizations, as well as many other comments from individuals submitted electronically (see Appendix I). Although we could have spent much more time in discussions with the sector, we made a

commitment to the VSR to conclude our work in a reasonable time frame, by the end of 1998, so that the product of our research and consultations could inform policy debates in a timely manner and potentially help create an agenda for action by the voluntary sector, the private sector, and by governments.

Throughout the consultative process, the voluntary sector demonstrated that it continues to be a crucial locus of democratic activity, of compassion, of skills-building, and above all, of action. While most of our interim report received support, not one of our initial recommendations went without comment, and most have been improved as a result. Not only was the process instructive for the Panel members, but in many communities we visited, our sessions were the first time in years, sometimes ever, that representatives of arts groups had joined their colleagues from the faith communities, social service agencies, health charities, women's organizations, foundations, and many others to engage in dialogue across the sector. This reflects both the diversity of the sector and the fact that there is no single organization which represents or coordinates all of the sector. It also indicates that, in today's environment, voluntary organizations are often so consumed with the day to day work that there is little time for anything else. Yet, we were impressed by the effort that participants made to provide us with thoughtful and detailed constructive comments on our draft recommendations. It was evident to us that the voluntary sector takes the issue of enhancing its governance and accountability very seriously.

Repeatedly, we witnessed the enthusiasm volunteers and staff have for the work they do: making Canada and other countries better and more just places to live. Their passion for their work and their fierce commitment to their members, beneficiaries and partners in the community was abundantly evident. We also heard of the frustrations these same individuals face, many with uncertain and diminishing funding, increasing demands for service, and bureaucratic burdens which are intended to make their organizations more accountable but which sometimes inadvertently make them less effective.

Voluntary organizations, through their voluntary leaders, volunteers on the front lines, and paid staff, told us repeatedly of their interest in helping their donors, clients, partners and the general public understand what they do and how they do it, with a view to improving their credibility and building greater effectiveness. They recognized the importance of being able to tell all interested parties how money is being raised, how it is being spent, and what results are being achieved through their work. They described their ongoing commitment and continued progress toward governing themselves more responsibly and effectively, and their desire to become better managers of both financial and human resources. After all, the voluntary sector has grown up with the country, and its work is more sophisticated, more vital and more needed than ever before in Canada.

Two cautions were frequently articulated, however. First, there is a danger that accountability could become the end instead of the means. Overly demanding regulations and highly onerous reporting requirements may look good on paper, but

their actual effect may be to kill the spirit of volunteerism with administrative paperwork and to drive out small volunteer grassroots organizations which do not have the capacity to meet them. Legitimate reporting requirements must, of course, be met.

A second major theme was the need to respect the enormous diversity within the sector – ranges of sizes, purposes, approaches, budgets, funding sources, and more. While some voluntary organizations have multi-million dollar budgets and extensive staffs, others have no staff at all, and half have annual budgets of less than $50,000.[2] Some organizations deliver a vast array of services, relying on volunteers and paid professionals; others are formed to meet a specific, local goal, and do so exclusively with volunteer time and modest cash contributions from members or neighbours. The ways in which voluntary organizations govern themselves differ considerably. Some have highly sophisticated board structures; others, such as women's collectives, have purposively designed alternative forms that do not rely on hierarchies or a separation of board and staff; in others, such as religious congregations which are governed by Church law, the concept of a board may be irrelevant. But these differences do not divide the sector. Rather, they are its strength. The message we heard was unequivocal: our differences must be respected; our diversity must be valued; and our common goal – making our communities better places to live – must be recognized.

We hope this final paper accurately reflects these important messages. It is our intention and our hope that the recommendations in this report will be as relevant and useful to a small group of volunteers that meets around a kitchen table as to a large, sophisticated national organization. We also hope that we have not, as one organization warned us, simply "built a better dinosaur." Our goal has been to make recommendations that will better equip voluntary organizations to deal with the enormous challenges and new realities that they face in the new millennium, rather than to help them survive in an environment that no longer exists.

It is crucial that accountability be achieved as part of the organization's mandate, not instead of it.

Heart and Stroke Foundation of Canada

OLD COMMITMENTS . . .

The work of the voluntary sector in Canada began before the country was even formed, producing all the humane influences necessary to transform colonies of explorers and traders into communities and a country we are proud to call home. Most of the public services we rely on today as essential aspects of a caring society – schools, hospitals, assistance to the poor, and care for children in need – began as initiatives of the Church and other religious organizations. Although most of these services are today provided by the state, voluntary organizations continue their work – operating independently or as partners with governments – in stitching a torn social safety net, educating and caring, responding with compassion and resources to disasters, large and small, environmental and individual, at home and abroad. Hundreds of thousands of volunteers play a fundamental role in the daily life of every Canadian community. Voluntary organizations provide prenatal support and home care for the elderly; enrich our lives with little league

baseball and symphonies; guide our lives spiritually; keep us healthy by supporting research to find cures for disease; and help give Canada a respected place in the world through tireless work in international development. In short, through voluntary activity, Canadians care for each other in virtually every aspect of life.

The voluntary sector does more than provide services, however. From its earliest days, the sector has also been central to how our democracy works. Voluntary organizations bring their expertise in working with communities and individuals to public policy debates and identify social priorities to governments. Bearing public witness – even if that means being critical of government policy on occasion – continues to be a valuable contribution of the voluntary sector to building vibrant communities and a healthy democracy. The sector is also the most important means of engaging citizens with each other and with governments. Through voluntary action, Canadians today continue to learn to cooperate and to give of themselves – a process that builds trust and a sense of community. Through participation we acquire the basic skills of democratic life: how to find a voice and to use it for the common good.

The voluntary sector is also important to the economic health of Canada. Although we think of the sector as consisting of volunteers, it is, in fact, a major employer: when the learning institutions and hospitals are included, it produces over 1.3 million jobs. And with annual revenues of $90 billion and assets of $109 billion, it is comparable in size to the entire economy of British Columbia.

In spite of the pessimism that is heard from some sources, contending that people have become more selfish and less caring, the commitment of Canadians to volunteerism and to the sector is stronger than ever. Indeed, the 1997 Survey on Giving, Volunteering and Participating found that the percentage of Canadians volunteering their time with an organization has risen almost five percent over the past ten years, from 26.8 to 31.4 percent.[3] The most significant rise in the volunteering rate is for youth (aged 15 to 24 years) which almost doubled from 18 percent in 1987 to 33 percent in 1997. Maintaining an effective and vibrant voluntary sector that can continue to work for and with Canadians is the motivation behind all of the Panel's work.

The capacity of communities to build social trust, maintain social cohesion, and establish cooperative relationships is the endowment which the voluntary sector has helped to created in Canada.

Bethany Care Society
Calgary

NEW CHALLENGES

At the end of the millennium, voluntary organizations are facing a rapidly changing environment and fundamental restructuring of how they work. Changing government roles, increasingly diverse populations, and new economic and social realities facing both young and old are requiring the voluntary sector to broaden, deepen, and adapt its approaches – and to do all of these at once. At the same time, the voluntary sector is trying to understand and honour its own diversity – to create approaches and solutions that can be adapted by organizations with vastly different missions, practices, and activities.

As governments have redefined and reduced their roles, new demands have been placed on voluntary organizations. They must not only deliver more services, but also serve new groups of people who often have more complex needs. New sources of funding have had to be found and, with more groups chasing private and corporate donations that are growing (but only modestly), competition in fundraising has become intense. Not only must voluntary organizations compete with each other, but with governments which increasingly are raising charitable dollars to pay for special projects, disaster relief and other public services. Corporate funding, although only a small part of the total income of the sector, has shifted to a large extent from unconditional philanthropy to philanthropy with conditions attached and, increasingly, “cause marketing” – support or sponsorships tied to specific activities that help sell a product or build a positive image among a target group of potential consumers. The lack of stable funding often makes it hard for an organization to avoid being diverted by chasing project money, attached to priorities determined by the funder rather by than the organization or its constituency, and to stay true to its mission with the ability to undertake long term and strategic planning. It has created pressures to be more innovative, work collaboratively with other organizations, expand business activities and perform more efficiently. For many organizations, the product of the double bind of more work and less money has been staff burnout, and an inability to keep pace with technological advancements or to invest in the training required for staff and volunteers to deal with more clients with complex needs. For many donors, inundated with requests for support, the result has been confusion about whom to support, how best to support them, and how their money will most effectively be spent.

Not surprisingly given these pressures, there are new demands from increasingly sophisticated funders and the public to demonstrate effectiveness, and where possible to do so in measurable outcome-based ways. It is no longer enough to be well intentioned and do "good." Voluntary organizations are increasingly expected to show that their programs actually make a positive difference in people’s lives.

Even volunteers are presenting new challenges. On the one hand, many recent volunteers have sophisticated expectations of finding satisfying experiences in volunteering.[4] On the other hand, voluntary organizations have had to find ways of integrating a new kind of "volunteer" – the non-voluntary volunteer, the person on workfare or other mandated community placement program – who may have limited skills and minimal commitment to the experience. At the same time, voluntary organizations are trying to reach out to youth, recent immigrants and culturally diverse communities, who may not have been their traditional volunteers, constituencies or clients in the past. In addition, it is now expected practice that volunteers, especially those who work with vulnerable populations, will be screened which takes both expertise and money. Although volunteerism, in general, has increased over the past decade, many organizations told us that it is becoming increasingly difficult to find appropriate people willing to serve as board members. Some are unwilling to make a commitment over a long time period, but the bigger problem is that many are deterred by concerns that they could be held personally liable should the organization run into trouble, or perhaps even that working on a board is not the most effective way of making a contribution.

Recent changes in Canadian attitudes have also created new challenges for the sector in two ways. First, there has been a general decline in trust in all public institutions and greater public scrutiny of the private sector as well as the voluntary sector.[5] Although Canadians have a continuing belief in the sector and high expectations of it, they are looking more closely at how the voluntary sector works and how it spends its donated money. This public skepticism has been reinforced by an aggressive media. While a small number of disreputable organizations or activities are inevitable in the sector, the sector itself wishes to take all possible steps to develop ways of minimizing and containing these occurrences and building the confidence of the public in the sector as a whole. Second, as in other developed democracies, Canadians have a strong and growing desire to participate in causes and issues that affect them.

Responding to these changes has not always been easy, however. With financial cuts and government downloading of services, many voluntary organizations have felt compelled to exercise their responsibilities to their constituencies and clients by speaking out and being more active in public policy debates. Due to both the enormous growth in the number of voluntary organizations and their louder voices, however, some politicians feel that they must compete to be heard. Instead of such activity being seen as a positive reflection of a healthy democracy, the credibility of voluntary organizations is often attacked. They have been portrayed as "special interest groups," and calls made for tighter restrictions on their activities. Ironically, this has occurred at the very time when governments need an even stronger voluntary sector.

We have watched the boundaries between sectors become blurred over the decades… No one sector is equipped to meet community needs, but when sectors work together and play to each other's strengths, Canadians are well served.

YMCA Canada

The new realities constitute a considerable blurring between the roles of government, business and the voluntary sector. The private sector has commercialized many goods and services that were once the preserve of the voluntary sector. On the other hand, voluntary organizations, by choice or necessity, have gotten into business ventures that are often in direct competition with private firms. Services that were once the domain of government are now delivered by both the private and voluntary sectors, sometimes in competition, but often working in partnership.

Gradually, a new balance among the three sectors has begun to emerge. The legal and regulatory frameworks within which the voluntary sector operates, however, have not for the most part kept pace with change.Voluntary organizations are generally aware of the need to change these frameworks in ways that enable the sector to renew itself and perform more efficiently and effectively, but often are uncertain about the specific reforms that would best do this. Governments have largely been passive observers.

Voluntary organizations have had to respond to these challenges in order to survive and thrive. From the smallest and informal to the largest and most sophisticated organizations, leaders in the sector have been thinking about how to be more responsive, how to do more (and better) with less, and how to work in more transparent ways. A central aspect of this self-assessment involves examining the basic principles of governance and accountability. Both are key to everything else voluntary organizations do. Governance entails the processes and structures that an organization uses to direct

and manage its general operations and program activities. Without good governance, an organization cannot expect to perform effectively and to have the capacity to adapt readily to change. Accountability for how an organization's activities and responsibilities have been carried out is critical to ensuring its credibility and to maintaining public confidence in it. And, both more effective performance and increased credibility go together in enabling the voluntary sector to respond to the challenges.

Organizations are spending a lot of time restructuring but they don't really know if it has been of benefit.

Participant in the Saskatoon Consultation.

PURPOSE OF THIS REPORT

The discussion paper outlined our preliminary proposals, posed options for the consideration of interested parties, and sought to encourage wide-ranging discussions within the sector and among others with an interest in it. It was presented as a point of departure for discussion, not a destination. It was the vehicle through which we sought to have others join in the journey. Because so many chose to join us, to alter our course, to take us in new directions, this final report is different in some significant ways.

As promised during the consultations, we have attempted to listen carefully. In many cases, what we heard caused us to revisit issues and to reconsider recommendations we presented in draft form. In other cases, we received strong affirmation of our initial directions so that only fine tuning was required. Now, this report serves as our best advice. Based on all we have learned through research and consultation, we believe that this paper offers a way to a better future, with healthy voluntary organizations in a vibrant democracy.

WHAT'S IN A NAME: NONPROFIT, CHARITABLE OR VOLUNTARY?

Every attempt to address issues of importance to the sector comes face to face with the lack of a clear, inclusive, and brief name for it. Thus any name we chose to use would be regarded as inadequate in some way.

The term, nonprofit sector, is the most encompassing concept, including as it does almost every type of voluntary association, charity, church, trade and professional association, and advocacy organization. This category, within Canada, is estimated to include over 175,000 organizations. Non-profit organizations enjoy special tax exemptions, which they gain by fulfilling the requirements of the *Income Tax Act*. They enjoy this status unless and until Revenue Canada determines that they are not non-profit in nature according to the terms of the *Act*. Although they themselves do not pay income taxes (except on their investment income), non-profit organizations are not entitled to offer tax incentives to those who contribute to their work.

A subset of nonprofits, the charitable sector, is the narrowest concept. It usually refers specifically to those organizations that are registered under the *Income Tax Act* as meeting a set of criteria, which exempts them from income taxes and permits them to provide receipts for donations that can be claimed as tax credits. Unlike the non-profits, they are required to apply for their status, which is either granted or refused by Revenue Canada, and which can be revoked by it as well. This category, too, includes a huge range of organizations – over 78,000 – from small entirely volunteer-run initiatives that provide services to a specific or local population, through to large institutions such as museums, universities and colleges, schools, and hospitals.

Our focus is primarily on organizations whose work depends on serving a public benefit; on volunteers, at least for their governance; on financial support from individuals; and on limited direct influence by governments, other than in relation to any tax benefits accruing to the organization. Although this encompasses the charitable sector, for the most part, we have focussed less on museums, learning institutions and hospitals because they have distinct characteristics and oversight relationships with government. Still, some of our recommendations are of relevance to these organizations. Similarly, organizations within the faith communities have special qualities and governance structures which makes some, but not all, of our recommendations inapplicable to them.

But we are concerned with more than charities – with the multitude of volunteer organizations, unincorporated and incorporated, that enrich the lives of communities, but which do not qualify for status as registered charities. These include recreational associations, service clubs, local community associations, advocacy groups, and community development organizations, among others. They are often the lifeblood of a community, and are part of the voluntary sector, but may be largely unknown beyond the borders of a particular neighbourhood. In some sections, notably our discussion of a good governance guide, we direct our recommendations to this broader category. In other places, such as recommendations related to fundraising, reporting requirements and financial accountability, our discussion is restricted to registered charities, including the larger institutional category.

We have chosen to refer to our focus as the "voluntary sector," recognizing that some organizations rely on paid staff to carry out their work, although all rely on volunteers on their board of directors for their governance. We selected the term to reflect the sector's essential spirit, not the nature of its labour force. We acknowledge that the boundaries of the voluntary sector are fuzzy; it is its core rather than its edges that matter for our purposes.

GUIDING PRINCIPLES

Where you end up on our kind of journey depends in large measure on the values and principles that guide the search. Thus we believe it is important to articulate the principles that have guided our examination of governance and accountability in the voluntary sector. As a basic starting point, all members of the Panel agreed that the social importance and value of the sector is enormous. Participants, financial supporters, volunteers and Canadians generally live better lives because of the vibrancy of this sector. Hence, the question was never whether the voluntary sector is a positive force, but rather what changes we could suggest that would strengthen its capacity. From this beginning, then, we have been guided by five basic principles:

1. The voluntary sector's role in building a sense of trust and social co-operation should be strengthened.

   Voluntary organizations are a primary means for connecting people to each other in society. Through working together and helping each other in collective projects, we build a sense of trust and co-operation with each other that extends beyond the task at hand. When such interaction occurs across different groups in society (for example, across social, linguistic, cultural or geographic groups), increased tolerance and social cohesion are more likely to occur. People become more cooperative and less cynical. To the extent possible, members, constituencies, users and beneficiaries should be involved in the governance and connected to the leadership of voluntary organizations. In respecting the diversity of the sector, however, we recognize that the ways in which members or users are involved may vary across organizations. Our intent is not to attempt to legislate a single model for internal governance or representation, but to provide diverse recommendations intended to increase the credibility and effectiveness of the sector. And by doing this, to enhance its ability to build greater trust and tolerance among citizens

2. A diverse and active voluntary sector promotes a healthy democracy and should be encouraged.

   The voluntary sector is a garden in which democratic skills are planted and nurtured. As diverse vehicles for participation by different constituencies, voluntary organizations enable a broad range of Canadians to have a voice in what shapes their daily lives. By participating in voluntary organizations, people learn and practice the skills of citizenship. As deliverers of services, voluntary organizations develop an intimate understanding of what works, and what does not in the implementation of public policy. When members of voluntary organizations engage constructively in policy dialogue and express themselves as advocates of particular causes and constituencies, they illustrate and reinforce the goals of participatory democracy. In this, they complement our democratic political institutions, notably parties and parliaments. A flourishing, tolerant civil society is crucial to a healthy democracy.

3. **A healthy and accountable voluntary sector requires capacity and this needs to be strengthened.**

The voluntary sector is not a cost-free resource. It has its own needs. Those involved require resources, support, organization and clear expectations from society and governments. The major change the sector is now going through has created expanded demands for capacity. The extensive and sustained voluntary action that will be required to meet the new demands will not happen spontaneously. Those involved must be motivated, trained and rewarded. The maintenance and development of the infrastructure and capacity of the sector – in the form of financial resources, staff, knowledge, information, and understanding – is essential to promotion of voluntary action. Therefore, the question of how the accountability of the sector might be improved must be addressed in conjunction with the question of how the requisite capacity and infrastructure to enable the sector to fulfil its obligations and public expectations can be built and maintained.

4. **The autonomy and self-governance of the sector must be recognized.**

The sector is an autonomous order in society, existing independent of governments. This is its essential strength and its core characteristic. Its members are self-governing associations and corporate entities with moral, legal and fiduciary responsibilities to their members, constituencies, users, funders and the general public. Self initiative, both by organizations and by its volunteer directors, is crucial to making the sector work. Being self-governing, voluntary organizations have their own audiences, including their members, constituencies, beneficiaries, donors, and funders, to whom they are accountable.

Autonomy does not mean isolation from government. It never has in a democracy. Indeed, there are longstanding points of intersection between the voluntary sector and governments. In particular, when voluntary organizations enjoy tax privileges as registered charities and non-profit institutions, certain additional responsibilities and obligations of accountability are naturally created. In this regard, any externally imposed regulations need to be balanced against the traditions and obligations of self-governance.

5. **The diversity of the sector should be respected.**

The diversity of the voluntary sector is one of its greatest strengths. Its more than 175,000 organizations differ enormously in their causes and constituencies, in size and resources, and in the extent to which they are run by volunteers or paid professional staff. It is this very diversity that enables the sector, collectively, to address the vast range of subjects and causes important to Canadians. Its flexibility also allows the sector to meet emerging needs, and operate simultaneously at the community, regional, national and international levels. The diversity of the sector must be promoted as well as respected. In making our proposals, we recognize that one size does not fit all.

DEFINING ACCOUNTABILITY

Accountability is the requirement to explain and accept responsibility for carrying out an assigned mandate in light of agreed upon expectations. It is particularly important in situations that involve public trust. However, a commitment to accountability should be thought of not only as answering to external audiences, but also as a constructive tool for organizational development, enhancing management practices, self-evaluation and strategic planning.

The application of accountability involves three elements:

- taking into consideration the public trust in the exercise of responsibilities;
- providing detailed information showing how responsibilities have been carried out and what outcomes have been achieved; and
- accepting the responsibility for outcomes, including problems created or not corrected by an organization or its officials and staff.

Accountability in the voluntary sector is multi-layered. It means accountability to different audiences, for a variety of activities and outcomes, through many different means. This multidimensional nature is the principal complexity of accountability in the voluntary sector.

ACCOUNTABILITY TO WHOM?

Voluntary organizations have accountabilities downward, outward and upward. They are accountable to their beneficiaries or clients, members, volunteers, staff, partners and affiliates, donors and funders, and governments, as well as to the general public. But, they are accountable in different ways to these different constituencies.

ACCOUNTABILITY FOR WHAT?

Voluntary organizations are self-governing agencies which hold a public trust related to a particular mission and they generally use donated funds to accomplish this mission. As a result, these organizations are responsible for what they chose to do and how well they do it. This means they are, at minimum, accountable for:

- establishing an appropriate mission and/or policy priorities and ensuring their relevance;
- sound management of funds received from donors and governments and of expenditures;
- effective organizational governance (including structures and processes for managing human resources); and
- the outcomes, quality and range of their programs and services.

Accountability per se is a good and necessary part of effective functioning of every voluntary organization and the sector as a whole. No one disagrees with that. How it is implemented is the key question.

Participant in the Winnipeg Consultation

ACCOUNTABILITY BY WHAT MEANS?

Voluntary organizations are expected to use a range of accountability methods. Some are applied by external regulatory agencies, while others constitute internal self-regulating measures. These include, among others: legal frameworks, government regulations, stewardship of an organization by its board, professional standards, accreditation, codes of ethical conduct, and outcome-based assessments of programs.

We did not start with any presumption that accountability means simply some form of regulation, either by an outside agency, or even internally by the sector itself. Regulation can only be part of the answer. As the Task Force on the Future of the Canadian Financial Services Sector noted in its 1998 report, Parliament cannot legislate vibrancy or public trust.[6] We also agree with the point made by the Ontario Securities Commission in its 1995 report that, when it comes to external rules, the need is for better, not merely more regulation.[7]

As was noted above, many individual organizations, and even subsectors within the broader community, have already devoted considerable resources – paid and volunteer – to codifying and implementing accountability measures. Such organizations recognized and acted upon their need to be responsible managers of people, stewards of funds, and responsive leaders within their communities. Indeed, in many respects organizations in the voluntary sector already have to meet more and higher standards of accountability than in the private sector. (Although the private sector might also benefit from a similar review of its governance and accountability, such a task was clearly beyond our mandate.) The voluntary sector has undertaken these initiatives to prepare itself for a new reality in which, we believe, high standards of accountability for all three sectors will be expected and closely scrutinized. By reviewing its governance practices now, the voluntary sector will be better prepared to succeed in the dramatically changed environment of the new millennium. That said, throughout the report we have tried to address the specific concerns we heard during the consultations that increasingly the playing field is less than level for the voluntary sector.

ORGANIZATION OF THE REPORT

Our analysis of and recommendations for enhancing the accountability looks at both the inside and the outside – what individual organizations and the voluntary sector can do to enhance governance and accountability *and* actions required by governments. In the section directed primarily at the sector itself, we examine the challenges, practices and potential enhancement of accountability in three categories that reflect the major vehicles through which accountability is already practised in the sector. These categories are:

- Organizational Governance and Stewardship;
- Program Outcomes; and
- Fundraising.

We then turn to reform of the broader statutory and supervisory frameworks that are the responsibility of governments, both federal and provincial. These include:

- access to the federal tax system;
- a new Voluntary Sector Commission;
- regulation of financial accountability; and
- organizational law.

What is immediately evident, however, is that requirements for accountability are meaningless unless voluntary organizations and the sector as a whole have the capacity, infrastructure and tools to meet them. Without adequate human and financial resources, skills, knowledge, experience, and technology these methods remain goals, rather than practices. The urgent requirement for capacity-building within organizations and the sector as a whole, then, is the first subject of discussion.

THE SIGNIFICANCE OF THE VOLUNTARY SECTOR

Size: The nonprofit sector in Canada consists of approximately 175,000 organizations: slightly over 78,000 of these are registered charities.

- this is 20,000 more charities than existed in the 1980s and three times as many as in the 1960s
- 36 percent of registered charities are places of worship or other religious organizations
- 5 percent are hospitals or teaching institutions

Income: With $90 billion in annual revenues and $109 billion in assets, the charitable sector is comparable in size to the entire economy of British Columbia. However, almost 60% of revenues in the sector are in teaching institutions and hospitals. Taken as a whole, the sector accounts for 1/8 of Canada's Gross Domestic Product.

- two-thirds of charities have annual revenues less than $100,000; half have revenues less than $50,000.

Employment: The sector employs 1.3 million Canadians, roughly 9 percent of the country's labour force and pays over $40 billion annually in salaries and benefits.

- 35 percent of these jobs are in hospitals and 21 percent in teaching institutions.
- 76 percent of the executives of charities are paid less than $50,000 per year (1993 data).

Volunteers: 7.5 million Canadians (31.4% of the population) did some kind of volunteer work through an organization in 1997, giving in total over 1.1 billion hours in volunteer time. This is an increase of 40 percent in the absolute number of volunteers since 1987 (compared to a 20 percent increase in the population).

- the nature of volunteers is changing: volunteers are younger and a substantial portion speak a first language other than English or French. For instance, Volunteer Vancouver reports that, in 1996, 43 percent of its referrals seeking volunteer positions were under 29 years of age and almost 30 percent spoke a first language other than English or French. In Montreal, 23 percent of applicants were under 25 years of age and 25 percent spoke a non-official language.

Funding: 60 percent of the income of the broad charitable sector comes from governments, 10 percent from individuals and 1 percent from corporations. The remainder is raised through user fees, product sales, investment income and other fundraising activities. In 1997, 88 percent of Canadians (over 15 years of age) made donations to charitable and non-profit organizations.

Note: The only reliable data are for registered charities. These data need to be treated with caution, however, because they include quasi-government organizations, such as hospitals and educational institutions. Produced with data from the Canadian Centre for Philanthropy, Volunteer Vancouver and the 1997 National Survey on Giving, Volunteering and Participating.

If we are failing, it is due to a lack of capacity, not accountability.

Participant in the Ottawa Consultation

We could be doing much more. In fact, staff consistently put in overtime on a regular basis. If only there was more money to pay more staff to do this work – we could create more jobs for our economy. And we could do a better job of serving the needs of the human service sector.

Social Planning Council of Cambridge and North Dumfries Ontario

THE NEED FOR CAPACITY BUILDING

Discharging the obligations of accountability requires resources and support at both the organizational and sectoral levels. Before we can consider how the accountability of the voluntary sector might be enhanced to meet new demands, we need to look seriously at whether the capacity exists within the sector to meet existing needs. By capacity, we refer to "the assets, strengths, qualities or characteristics" that enable a voluntary organization or the sector as a whole to survive while addressing ongoing challenges and to grow and thrive while meeting new opportunities.[8] In addition to "hard" infrastructure, such as funding, technology, and human resources, capacity entails knowledge and understanding. There is no doubt that the sector recognizes this challenge, and has been moving to meet it in its recruitment of volunteers, development of intermediary organizations that can assist with skills and resources, and other strategies to help organizations help themselves. The sector's partners, including governments, and the public need to understand how it works and what it needs to work most effectively.

In recent years, the voluntary sector's infrastructure has been significantly weakened for a number of reasons. As a result of government cuts to funding, often combined with downloading onto the sector of services once provided by governments, there is intense competition for funds, not only within the sector but often with governments directly. The pressure to deliver more and more sophisticated services has stretched the financial and human resources of many organizations. Information technology has become an essential tool for effective communication and management in the modern organization, yet voluntary organizations lag badly behind the other sectors in this regard. Coupled with demands by funders for outcome-based performance measurement, there has been a growing need for greater professionalization of staff and training of volunteers.

The capacity of the sector has also been hampered by the lack of understanding and knowledge of some critics. Over the past decade, many voluntary organizations have had their credibility challenged by being labelled with the derogatory term, "special interest groups," and their work belittled by the suggestion that they make no constructive contributions to public policy, civil society or the economy. In turn, the voluntary sector has not always been articulate in the issues it raises. Today, however, a new balance is emerging, based on the increased recognition that the voluntary sector is as essential to our quality of life, democracy and communities as are the government and private sectors.[9] Yet, the achievement of this new balance and realization of the

full potential of the voluntary sector as the third pillar in society require more knowledge by the public and by policy makers about the nature of the sector, how it functions and the challenges it faces. And this requires new efforts and initiatives from the sector itself.

There is a clear link between visibility, understanding of the sector and accountability. More effective partnerships, increased charitable donations and greater levels of trust could result if the sector becomes better known and better understood. This, in turn, would assist in building capacity that could help the sector to govern itself even more effectively.

Do governments, funders and corporations have a responsibility in helping to rebuild and create new capacity in the voluntary sector? Yes, if they are serious about achieving a new balance among the three pillars of society and working in true partnerships. Yes, if they want to draw upon the expertise and energy of the voluntary sector in building better communities which both produce and attract top quality employees.

Governments have begun to recognize the importance of capacity building within the voluntary sector. The British Columbia government recently created the position of minister responsible for the voluntary sector. In its 1997 report entitled, "Sustaining a Civic Society: Voluntary Action in Ontario," the Premier's Advisory Board on the Voluntary Sector urged the Ontario government to initiate a new partnership with the sector, create new forums for discussion, and provide funding and other support to build the capacity of voluntary organizations to serve the community.[10] With the exception of Quebec and its initiatives around the économie sociale, however, little concrete action has yet been taken by most provinces. Some progress has been made federally. In its promises for the second mandate, often referred to as "Red Book II," the federal Liberals committed their government to enhancing the capacity of the sector.[11] In the 1996 and 1997 budgets, the government improved the tax provisions for charitable donations, and is currently helping to expand the sector's technological capacity through Industry Canada's VolNet project. The federal government also made a commitment to promote understanding of the sector by encouraging the direct participation of government employees in voluntary and exchange programs. An interdepartmental Task Force on the Voluntary Sector has been established, working out of the Privy Council Office, to agree upon, promote and coordinate further steps. It has brought together 17 departments with central, ongoing relationships and interests and 25 other departments with significant but more peripheral or sporadic relationships with the voluntary sector to ensure co-ordination among government initiatives, and to assist the government in meeting its Red Book obligations.

In this section, we outline the further steps that a variety of stakeholders need to consider in order to enhance the capacity of the sector in ways that will also bring improved accountability.

The more knowledge the public, funders, and government have about the sector, the more likely they are to view the sector as being open, transparent and accountable… This is not to suggest that the voluntary sector agencies don't need to earn respect by having accountable and transparent practices in place, but the challenge to be seen to be accountable may be reduced if the sector is better understood and known.

Community Foundations of Canada

These practical challenges can only be addressed if governments, first, clearly acknowledge the legitimacy and importance of the voluntary sector's "voice" in public policy and, second, commit to share the role of priority-setting and policy-making in areas where the voluntary has, or is expected to have, a program or service delivery role.

Canadian Centre for Philanthropy

For a variety of reasons, the existing relationship between governments and the voluntary sector does not reflect a true partnership, with mutual respect and joint decision-making… In order to better serve our communities, a practical method for developing and sustaining a meaningful partnership needs to be addressed.

The Arthritis Society

TOWARD BETTER RELATIONSHIPS AND GREATER UNDERSTANDING

A COMPACT WITH GOVERNMENTS

Part of capacity building is helping governments to grasp both the potential and the limitations of the sector. In recent years, the resources of the sector have been stretched to the limit because governments have unilaterally downloaded services on organizations. Such unilateral action and the sector's often vocal resistance have spawned suspicions on both sides. The general feeling in the sector is that governments' dealings with the voluntary sector are seldom characterized by the mutual respect and joint decision-making that are fundamental to an effective partnership. Mechanisms are needed to establish greater understanding relative to expectations and good practices for both sides.

In the Discussion Paper, we suggested that both the federal and provincial governments establish forums, such as ongoing roundtables, for promoting discussion and reaching a greater understanding on common issues. Although generally supported, many voluntary organizations told us during our consultations that they have some reservations about the roundtable approach because it tends to exclude small organizations and those not represented by intermediary organizations and because action seldom results.

When we released our Discussion Paper, the notion that government and the sector could actually negotiate and sign a "compact" or "concordance" was quite novel, but a worthwhile consideration in our view. Since then, the Labour government in the UK has completed negotiation of three compacts with the voluntary sector, one each in Scotland, Northern Ireland and England.[12]

The compacts are intentionally general and not legally binding. Rather, they are meant to be interpreted as signs of declared commitment on both parts: a set of important statements of mutual recognition and respect, and of mutual commitment to pursue common goals according to largely shared values. They are the product of extended dialogue within the sector and negotiation between the sector and government officials, and are to be reviewed annually by government and the sector. The intent is to capture, in a broad sense, the rights and responsibilities of both governments and voluntary sector organizations in their dealings with each other. For example, in the English compact, voluntary organizations agree to be bound by the decisions of the Charity Commission with regard to advocacy, and the government recognizes the right and responsibility of voluntary organizations to advocate for changes in public policy based on information gained from their membership and/or clients. Similarly, governments recognize their role in providing financial support for technological infrastructure within the sector, and voluntary organizations acknowledge their responsibility to be transparent and accountable in their dealings with government and the public.

Based on what has been accomplished in these compacts and what the Panel heard during the consultation process, ***we recommend that both the federal and provincial governments enter into discussions with the sector to establish mechanisms, such as compacts or other ongoing forums, for promoting understanding and agreement on appropriate conduct and the future of the relationships between the sector and governments.*** Critical issues that might constructively be addressed in a compact include:

- What services can the voluntary sector realistically deliver?
- How can collaborative needs assessment and program planning be established?
- What should be the principles for funding?
- What is the scope of public policy advocacy?
- What mutual accountability mechanisms are needed?

A VOICE AT THE CABINET TABLE

Imagine how absurd it would seem if agriculture, the financial services or natural resources sector were not represented at federal or provincial Cabinet tables. Arguably, the voluntary sector is as important in its economic impact and social significance. It is also essential to how governments carry out their own core business. Yet, with the exception of British Columbia, no Canadian government has a Cabinet minister ensuring that the sector's interests are represented at the strategic policy and resource allocation stage of government decision making.[13] In one sense, every Cabinet minister might claim to speak for the sector given that the breadth of its activities touches on virtually every portfolio. But, secondary and fragmented voices are seldom as powerful or constructive as that of a designated minister. During our dialogue with voluntary organizations, we heard of many instances at both levels of government in which major decisions were taken that either impacted upon or relied upon the voluntary sector for implementation, without adequate knowledge or consideration of how the sector would respond, or examples where government departments acted at cross purposes.

We recommend that the federal and each provincial government assign responsibility for the voluntary sector to a Minister within the Cabinet and that each establish a small, internal coordinating policy unit. The job of the policy unit would be to work horizontally within government with the primary goal being to provide some coordination across line departments relative to their programs and policies for the sector. We do not imagine that such a policy unit would, nor should be one-stop shopping for the sector. Nor should it would replace the direct relationships that line departments have with voluntary organizations. At the federal level, such a unit might continue the work of coordination begun by the Task Force on the Voluntary Sector and could also play an important liaison role between government departments and the new quasi-independent Voluntary Sector Commission which we are proposing be established.

The rules keep changing and the downloading continues. A meaningful dialogue between Government and the voluntary sector, which rarely occurs, could prevent many of the most negative impacts on local community services.

United Way of Canada - Centraide Canada

Two things must happen in order to affect meaningful change. First, we must look at our own intermediary groups to increase collaborative programming. Second, we must urge both Federal and Provincial Governments to elevate matters related to the voluntary sector to their respective cabinets.

United Way of Canada - Centraide Canada

Most funders, including governments, have failed to acknowledge that highly-skilled managers are required in a sector that operates on the basis of trust and consensus… In addition to assistance with the costs of management development, there is a need to enhance the voluntary sector as a career option for promising graduates and talented managers.

Canadian Centre for Philanthropy

The need to ensure that the results of research are made widely available is critical… There needs to be a positive obligation on funders supporting research to disseminate the findings, so that we do not constantly "reinvent the wheel."

The Muttart Foundation Edmonton

BUILDING INFRASTRUCTURE AND SKILLS

BETTER RESEARCH AND TRAINING

Both research and training are essential to developing new methods for improving accountability and governance and for communicating best practices in these areas. In Canada, however, there has been a paucity of research on the voluntary sector and of training opportunities for its leadership, employees and volunteers.

This is slowly beginning to change. Several foundations have recently provided major funding for research, board development and training. The recent partnership between the federal government and the sector to conduct the 1997 survey on giving, volunteering and participating has been a welcome development. Academic study is beginning to be expanded by universities under recently established centres for research on the voluntary sector. There remains a serious need, however, for resources, institutions and programs aimed at sustaining and expanding research and training.

Governments, foundations, corporations, educational institutions and the sector itself all have important parts in working toward improving the sector's capacity for research and training. ***We urge all stakeholders – including intermediary organizations, governments, corporations, learning institutions, and individual voluntary organizations – to work together to develop and support research and training opportunities in the sector and to disseminate the research produced.***

Such assistance involves not only financial resources. Equally important is in-kind support, such as lending accountants, information management specialists and other experts for short periods of time.

IMPROVING INFORMATION TECHNOLOGY

Information technology is a vital means of communication across sector and with the public, and is becoming increasingly so. In a sector so large and diverse, the primary means through which the public will have easy access to information on any particular organization and a window on the sector as a whole will be through the Internet. Indeed, we believe that one of the most useful ways of enhancing transparency in the sector will be to provide easy public access to information about all registered charities through a comprehensive, user friendly website managed by a new Voluntary Sector Commission.

In spite of its essential role as a tool of accountability, information technology is under-developed in most voluntary organizations and sadly lacking in small organizations. The need to improve information technology, both hardware and software, has already been recognized by the federal government which is helping to develop this capacity through the Volnet Program. But, this is just a beginning.

We urge all stakeholders to work together to improve the sector's information technology and to develop the expertise to use it effectively.

STRENGTHENING INTERMEDIARY ASSOCIATIONS

Intermediary associations are umbrella bodies whose members are organizations engaged in direct service delivery. These associations include both sector-wide organizations, such as the Canadian Centre for Philanthropy (CCP) and National Voluntary Organizations (NVO), as well as the national umbrellas in particular sub-sectors, such as health, arts and culture, and family services. Although they seldom deliver front line services directly, intermediate associations help to improve the effectiveness of the sector and facilitate its development by:

- being an important force for change and leading the way in innovation related to improving governance and accountability practices;
- providing information and services to other organizations, especially those which are new, small and have limited resources;
- offering training programs;
- creating forums for discussion and liaison with governments and the private sector;
- identifying new needs and issues;
- setting standards, informally or formally through accreditation; and
- raising the profile of voluntary organizations and the sector as a whole and serving as advocates for their interests.

Core funding to intermediary organizations can be an efficient way of developing and communicating best practices to the grassroots organizations and across the sector. Intermediary organizations in Canada historically have been under developed: there are few of them and they have limited resources compared to those in other countries.[14] To make matters worse, many existing intermediary organizations are in financial trouble. In the early 1990s, the federal government cut their core funding dramatically, by as much as 50 to 100 percent in a single year, as part of its change in funding priorities that favoured service delivery organizations. Many have never fully recovered from these extensive cutbacks. Intermediary organizations often do not qualify for charitable status which would allow them to issue receipts for tax credits and, even if they do, many are reluctant to compete with their members for fundraising revenues. They are difficult to sustain on membership dues alone and have limited potential for fundraising because corporations and other funders generally prefer to give money to direct service delivery.

However, money is not the only requirement for more effective intermediary associations. They also require a recognition that they have a legitimate and valuable role to play in the sector. At times, in a healthy democracy, this role includes being critical of governments.

In the interests of building capacity in the sector, we propose that governments reinstitute and increase a modest core funding of intermediary associations in order to support their important work in promoting and enhancing improved governance and accountability by their member and grassroots organizations.

There has been an insidious and widespread move over the past five to ten years to devalue sustaining grants and operational funding in favour of project funding. This has undermined the Sector's capacity to be responsive, has reduced innovation and increased dependence on funders especially governments.

National Voluntary Organizations (NVO)

Opportunities for communication within the sector and between the sector and its government and corporate partners are critical. It was evident from our consultations how valuable and how rare such cross-cutting dialogue is. In St. John's, for instance, one participant told us that our session was only the second time in the sixteen years that he had worked in the sector that he had been invited to a broadly-based cross-sector dialogue. In the last few years, national organizations have come together as the Voluntary Sector Roundtable to lead such collaboration and dialogue at the national level and we commend their efforts. ***We encourage national voluntary organizations to continue working collaboratively in order to improve communication about innovations, share good practices and promote training and research across different types of organizations and between community and national organizations.***

Foundations and other funders could also work more collaboratively to expand capacity within the sector. In several cities, community and other foundations are coming together in various loose arrangements to examine how, as funders, they might better facilitate the work of the sector and its connection to the community. Although there is a national association of Community Foundations, there is no association in Canada to which all foundations belong. ***We encourage foundations to create their own national organization, including all foundations operating in Canada. We also urge them, collectively and individually, to provide support for capacity building, including organizational infrastructure, education and training and the work of other intermediary organizations.***

The media, too, have an important role in increasing the public's general knowledge of the sector and its activities. This involves more than reporting on stories of wrongdoing or the remarkable contribution of a particular volunteer. It requires building a broader, more solidly based understanding of this sector's important role as one of the three pillars of Canadian democracy.

The contributions of corporations and businesses to the voluntary sector should not be underestimated. The partnerships that some voluntary organizations have forged with corporations are the lifeblood of their existence.

Participant in the Regina Consultation

CORPORATE RESPONSIBILITY

Why should corporations care about the health and capacity of the voluntary sector? The answer is that they benefit both directly and indirectly. A lively and strong civil society that is built on the trust and cooperation created by citizens helping each other and working together has been shown to be linked to stronger economic performance.[15] As Thomas d'Aquino, president and chief executive of the Business Council on National Issues recently told his corporate colleagues:

> Corporate citizenship is not a matter of giving away shareholders' money – it is an important element in good business strategy. . . . In the global knowledge-based economy being based in communities with a high quality of life is a critical competitive advantage. So is a reputation as an employer of choice when trying to attract and retain highly skilled employees.[16]

Although some corporations have been dedicated supporters of the sector, Canadian corporate donations, overall, account for a mere 1.5 percent of the revenues of charities.[17] In recent years, the nature of corporate support has changed, moving away from pure philanthropy to conditional philanthropy to "cause marketing," funding or sponsorships.[18]

There are some signs of increased corporate responsibility. However, with fiercer competition for contributions, individual businesses are often inundated with requests for assistance and many are confused about whom to support and how. Greater dialogue and understanding between the corporate and voluntary sectors would be of mutual benefit. *In view of the growing importance of the sector, corporations should explicitly review and enhance the ways by which they can exercise their responsibility and support for voluntary organizations. These include: at least meeting Imagine's minimum giving target of one percent of pre-tax profits; implementing policies of pure philanthropy not just cause marketing; lending expertise and other forms of in-kind support; providing or assisting with training programs; creating genuine partnerships with voluntary organizations; supporting volunteerism by employees; enhancing dialogue with the sector; and conducting model social audits.*

Throughout our consultations, a central message we heard was that, while the voluntary sector is legitimately expected to be increasingly accountable and transparent, the playing field may not be entirely level. Examination of accountability in the other two sectors is beyond our mandate. However, *we suggest that corporations should publicly report their contributions to the sector, both financial and in-kind, as part of their annual reports.*[19]

As we will see in the following pages, there are many measures that voluntary organizations can take to improve upon their practices of accountability in the short term. But, we would be unrealistic to think that, over the long run, a highly transparent and highly accountable sector can be achieved without investment. Accountability requires effort, but it also necessitates capacity.

3. ORGANIZATIONAL GOVERNANCE AND STEWARDSHIP

Effective governance and accountability begin at home: in one's own organization, no matter how large or small. Voluntary organizations are first and foremost self-governing. An organization's leadership has a moral, legal and fiduciary responsibility to its members, constituencies, users and beneficiaries, staff and volunteers, as well as the general public. Specifically, it is responsible for effective governance of the organization. This means ensuring that the appropriate process and structures are in place to direct and manage an organization's operations and activities, and to ensure that they function well. The ultimate goal of good governance is to ensure the effectiveness, credibility and viability of the organization.

Where problems of organizational governance exist in the sector, they are due largely to the nature of volunteer boards, who often have limited time to devote to the task, are poorly informed about the nature of their responsibilities in the first place, or do not have access to the right tools to improve their own performance. Such problems are compounded if, due to the pressures of rising demands for services and shrinking resources, an organization is so consumed with daily tasks that there is little opportunity to stand back to evaluate and overhaul the structures and processes of governance.

The 1990s have been challenging times for the voluntary sector and have demanded particularly strong and well run organizations to survive and succeed. Throughout our consultations, we heard about the extensive work which voluntary organizations have undertaken in recent years to review and redesign how they are structured, governed and managed in light of the changing environment in which they operate.[20] Indeed, it was rare to hear from a voluntary organization that had not done just that, and most saw improving organizational governance as an ongoing concern. But, such redesign is often approached as trial and error since there are few standards, published best practices or guides to assist organizations. Given the enormous differences among voluntary organizations, some trial and error may be absolutely necessary. But, there is also considerable commonality in the best practices being developed across the sector and emerging agreement on some basic standards or excellence.

It is important to note that concerns with improving organizational governance have not been limited to the voluntary sector. The corporate sector has been grappling with similar issues. In 1994, the Toronto Stock Exchange (TSE) Committee released its report, "Where Were the Directors?", that presented a set of guidelines for corporate governance.[21] Although the idea that consistent guidelines could be applied to the entire private sector was resisted at first, the TSE guidelines have now become a benchmark and standard for corporations in Canada. Their acceptance has been aided by growing empirical evidence which supports the long held intuitive sense that

effective organizational governance does, indeed, lead to better performance. A study conducted by the Conference Board of Canada three years after the publication of the TSE guidelines found that those corporations which had implemented the best governance practices have attained the best results on key performance criteria.[22]

Our goal in this section is to provide some guidance in thinking about the principal elements of good governance. First, we outline a guide for good governance practices.[23] We recognize that this guide will not be applicable to every voluntary organization, nor is it intended to be a required standard or norm. Its purpose is to serve as a guide that voluntary organizations working to improve their own governance and accountability practices could consult and from which they could derive guidance.

Although self-governing, voluntary organizations that issue tax receipts do have a responsibility to make public certain information about themselves. Our second task is to outline the specific kind of reporting that should be required for large and for small organizations.

Third, this section considers whether external "accreditation" is a useful vehicle for enhancing governance and accountability in the sector.

A pure business approach to improving governance and stewardship should be avoided. Voluntary organizations are not like businesses; their bottomlines are not about improving profits, but improving the lives of people.

Participant in the Calgary Consultation

A GOOD PRACTICE GUIDE FOR EFFECTIVE STEWARDSHIP

The active oversight of organizational governance by the board of directors is what we refer to as stewardship. It is the duty of the board to oversee the conduct of the organization's affairs, ensure that an effective team is in place to carry out day to day activities, account for its financial and other resources, and ensure that no issue falls between the cracks in steering the organization toward the fulfilment of its mission.

Effective stewardship by a board cannot be legislated. Nor is there a single model of good stewardship that can be applied as uniform procedures and practices in every organization, in part, because every organization is unique. Each organization has its own philosophy of governance, different financial and human resources to manage, distinctive organizational culture and particular expectations imposed on it by members, constituencies and users. And, of course, differences exist between smaller and larger organizations. Additionally, some organizations have chosen to work on a consensus model with a collective decision-making structure. Still another distinction stems from the governance by Church law of many religious, church-related voluntary organizations.

While recognizing the differences within the sector, we have attempted to provide basic guidelines for stewardship in voluntary organizations. The way in which these guidelines are applied and adopted will depend on an organization's specific situation, history, needs and resources. They are designed for adaptation and implementation by

The unique character of religious communities needs to be recognised. We are not first and foremost "volunteers". We are believers, whose fundamental identity is formed by our faith.

The United Church of Canada

As part of their contribution to society, religious organizations must be as accountable as other voluntary organizations, but the forms of that accountability may be different out of respect for the variety of religious structures which have a long history.

World Vision Canada

medium-sized and large organizations, both charities and public-benefit non-profits. We recognize that many already have effective practices in place, and will not need to make to any changes. We heard during our consultations that the governance guidelines were also useful as a kind of "checklist" for smaller organizations -- a standard toward which they might seek to evolve. However, we wish to emphasize that these are intended to serve as a guide for organizations, not an attempt to prescribe or impose a standard for all organizations. For some, particularly very small organizations or those that operate without boards, our guide may not be applicable.

Effective board stewardship involves eight key tasks:

- steering toward the mission and guiding strategic planning;
- being transparent, including communicating to members, stakeholders and the public and making information available upon request;
- developing appropriate structures;
- ensuring the board understands its role and avoids conflicts of interest;
- maintaining fiscal responsibility;
- ensuring that an effective management team is in place and overseeing its activities;
- implementing assessment and control systems; and
- planning for the succession and diversity of the board..

The following guidelines are intended to increase the effectiveness of the board in its exercise of stewardship.

MISSION AND STRATEGIC PLANNING

The definition of fundamental goals and strategy is the most important duty of the board. Unless it fulfils this duty, the board will have no touchstone to determine the appropriateness of its actions, the performance of management or the success of the organization itself. A duty of every board is to:

- *establish the mission; communicate it with members and stakeholders; and periodically review its appropriateness;*
- *identify the key elements to success in sustaining this mission and establish a strategic planning process as to how to get there;*
- *approve a process for risk assessment and management to assist the board in anticipating risk, assessing it, and managing the outcome of risky actions;*[24] *and*
- *oversee and monitor the achievement of the mission by setting measurable goals, defined in terms of desired outcomes or impacts on clients, rather than as inputs or activities.*

TRANSPARENCY AND COMMUNICATION

Openness, transparency of activities to the public at large, and two-way communication between the organization and its members and constituencies are qualities that underpin successful stewardship. Transparency and open communication demand that a board:

- *establish policies for communicating and receiving feedback from stakeholders;*
- *ensure, as part of a code of ethical conduct, that the complaints and grievance procedure works effectively;*
- *hold regular board meetings that provide an opportunity for discussion;*
- *provide a collective memory of the organization by ensuring that appropriate minutes and documents are kept; and*
- *respond appropriately to requests for information.*

STRUCTURES

The way in which the organization and the board are structured can contribute to or hamper effective stewardship. The complexity of the structures will normally depend on a number of things, such as the size of the organization, whether it has a membership base and whether it is part of a federation, among others. No particular structure fits every organization. But, in organizations governed by a board, it should provide independent oversight and effective stewardship. *To meet these goals, we suggest that an organization have at least three basic elements:*

- *a board capable of providing objective oversight;*
- *an independent nominating committee to ensure the appropriate succession of the board; and*
- *an audit committee, whose primary responsibility is to report whether the organization is in compliance with the laws, rules, regulations and contracts that govern it. It also reviews whether the management, information and control systems are organized and implemented to carry out these rules and regulations, and as well is responsible for supervising external financial reporting.*

Other structures may facilitate good governance, but are more dependent on an organization's specific situation. For example, in federations there is often a conflict, or at least lack of clarity between the roles and responsibilities of the national office versus those of provincial or local organizations, not to mention partners and affiliates. The development of federation agreements spelling out responsibilities and expectations can promote better understanding between the member organizations. Similarly,

collectively governed organizations often include all staff in the governance structure, making some of the specifics here inapplicable. Also, organizations governed by Church law have special requirements and issues.

In many voluntary organizations, ways must be found to pay greater attention to the membership. As we noted in our foundational principles outlined in the introduction, an active membership can build trust and develop the capacity for democracy and the skills necessary to its practice. We are not suggesting that every voluntary organization must develop a membership. However, we do encourage organizations to assess the value of a membership. If a membership exists, it requires nurturing and attention. At minimum, this means the opportunity to participate at an annual general meeting, but should also include other means of informed participation in the democratic processes and policy development of the organization.

THE BOARD'S UNDERSTANDING OF ITS ROLE

One of the most common complaints about stewardship is that board members do not have a shared understanding of the role of the board. Individual board members frequently say that they did not know what there were getting into when they joined the board and were subsequently disappointed or unable to met the demands of the position. Developing a shared understanding and clear expectations of the collective role of the board and of individual board members is essential to effective stewardship. *Every board should:*

- *decide upon and communicate its philosophy of governance.* Will the board operate as a "policy governance" board (governing by making policy and providing strategic direction, but keeping hands off management) or an "administrative governance" board (which not only sets policy, but does some of the implementation itself)? The former is preferred in larger organizations, but requires professional management.
- *develop a code of conduct for board members to help the directors understand, and ensure they agree to the obligations which they are undertaking;*
- *establish and enforce a written conflict of interest policy governing board members and staff or volunteers who have independent decision making authority over the resources of the organization;*[25]
- *provide job descriptions for board members that outline general duties and how the board's work will be evaluated;*[26]
- *invest in board members with orientation and ongoing information sessions;*
- *recognize the contribution of board members and provide feedback on the board's performance; and*
- *use the time of the board members efficiently.*

There is a huge need for board training. United Ways and Volunteer Centres have programs, but getting board members to commit to the time required for training is a barrier in itself.

Participant in the St. John's Consultation

FISCAL RESPONSIBILITY

One of the primary legal and moral obligations of any board of directors is to ensure that the finances of the organization are being allocated appropriately. In a for-profit corporation, the overriding concern is generally to provide the highest financial return to the investors. In a voluntary, public-benefit organization, particularly if it is financed in part with tax-subsidized contributions from individuals, corporations or foundations, the overriding concern is more likely to be that the social benefits of the contributions are as great as possible, and are in keeping with the organization's stated mission and goals. In both kinds of organizations, however, there are legal requirements on how money is accounted for, and how its spending is reported. The board of directors has ultimate responsibility to ensure that these requirements are met. Should the organization fail, board members may be held personally responsible for paying outstanding debts, wages and benefits. *Exercise of its fiduciary responsibilities requires a board to:*

- *approve a budget that reflects the organization's priorities and that is based on realistic assumptions (of revenues, costs, and other factors such as inflation);*
- *monitor and control expenditures, based on appropriate accounting procedures;*
- *oversee the stewardship of the organization's assets and liabilities;*
- *if a registered charity, provide oversight of the issuance and record-keeping of receipts for charitable donations; and*
- *approve annual reports, including financial statements.*

OVERSIGHT OF HUMAN RESOURCES

The issues surrounding staff and volunteers vary enormously across voluntary sector organizations. On the one hand, over 40 percent of voluntary organizations have no paid staff at all and rely exclusively on the contributions of volunteers. On the other hand, professional staff are vitally important to the work of most established organizations in the sector. In both small and large organizations, however, there is often a dynamic tension – which may be more or less healthy – between the board and paid staff. There are also many new challenges facing boards in their relationships with both staff and volunteers. For instance, many governments and other funders are putting pressure, through their structuring of contracts or partnership agreements, on organizations to replace full-time employees with full-time, self-employed contractors. In addition, some voluntary organizations must attempt to integrate into their organizations non-voluntary "volunteers:" individuals who are receiving work subsidies or are required to do community work in order to receive social assistance benefits or graduate from high school. These developments raise both ethical and legal issues for voluntary organizations.

In terms of the management of staff, even if there is only one employee, the board should:

The voluntary sector is growing and people require training to be more effective in their operations. Smaller organizations are not up to speed in comparison to larger voluntary organizations that have more resources to do training and development of both staff and volunteers.

Participant in the Victoria Consultation

The CAVR Standards of Practice are national standards that organizations can utilize to ensure quality and accountability in the administration of volunteer resources. These standards go far beyond the recommendations of the panel with respect to managing staff and volunteers.

Canadian Administrators of Volunteer Resources

- *ensure the organization complies with employment legislation, workplace safety regulations and reviews its employment arrangements periodically to ensure they comply with good practice;*
- *ensure staff are provided with job descriptions, orientation, management, training and performance appraisals;*
- *recruit staff openly, fairly and systematically; and*
- *review periodically the staff structure and effectiveness of the working relationship between the board and staff.*

Volunteers have a special place in voluntary organizations, working in capacities of governance, administration and program delivery. The use and management of volunteers requires equal weight in an organization's human resources policies and practices to those for paid staff. Volunteers do not simply show up and do unpaid work: they need to be screened, organized, directed, trained, appraised and recognized. *Organizations that work with volunteers should:*

- *have in place a clear set of policies addressing the recruitment, preparation, oversight and recognition of volunteer resources; (Volunteer programs should be designed and assessed with the same stringency as other programs.)*
- *give volunteers a clear statement of the tasks and activities that they are to carry out, perhaps including job descriptions or volunteer agreements;*[27]
- *adopt and adhere to codes of ethical conduct for managers of volunteers and volunteers themselves;*[28]
- *provide adequate orientation, training and evaluation;*
- *publicly recognize the contributions of volunteers;*
- *screen volunteers, particularly if the organization works with vulnerable populations;*
- *provide direction and, in unionized environments work with the unions to reach agreement, on how the paid or non-voluntary volunteers are to be integrated into the organization; and*
- *establish explicit expectations about the claiming of expenses.*

Of course, the degree of formality with which these duties are carried out will vary with the size of the organization.

ASSESSMENT AND CONTROL SYSTEMS

The objective of assessment and control systems is to provide reasonable assurances that the organization will achieve its mission and objectives reliably, efficiently and in an ethical manner.[29] These systems are thus closely related to exercising financial responsibility and oversight of management. *We propose that boards should adopt the following assessment and control procedures, modified as appropriate for the size and circumstances of the organization:*

- *a code of ethical conduct and an effective monitoring and complaints procedure; (A sample code of ethical conduct appears in Appendix II.)*
- *a framework for internal regulations, including a constitution and bylaws (these might be quite simple in small organizations);*
- *a compliance audit as an integral part of the annual evaluation cycle to regularly check that the rules governing the organization are being followed and that control systems are functioning and adequate; (This would normally be supervised by the audit committee. Upon receiving the report of the audit committee, the board has a responsibility to respond, indicating how it has addressed issues of noncompliance identified by the committee.) and*
- *evaluation of the performance of the board collectively.*

PLANNING FOR SUCCESSION AND DIVERSITY

In order to maintain the viability and health of the organization, the board must also develop a plan for its own succession and for recruiting new board members. Although often overlooked until just before the annual general meeting, successful recruitment is a year round activity. ***We recommend that voluntary organizations appoint nominating committees, independent of management, which are charged with responsibility for assessing the qualities of board members desired, developing selection criteria and proposing suitable candidates.*** In recruiting prospective board members, adequate information needs to be provided to them so that they understand what they are being asked to undertake and can make an informed decision about whether to join the board. And, prospective members need to ask questions.

Organizations need to be more selective when soliciting board members. There needs to be a better fit between the kinds of skills required for the good governance of an organization and the expertise and capacity of the prospective board members.

Participant in the Vancouver Consultation

Finally, effective stewardship involves ensuring that the organization's constituencies and clients participate in its governance, as appropriate. In recent years, concerns about the empowerment of individuals and communities have created new pressures on organizations to be representative and inclusive. But, issues of diversity play out in different ways in different organizations. We are not attempting to force user involvement or legislated diversity on every organization. Rather, ***good practice requires that every board:***

- *discuss whether the representation of constituencies and users on the board is important to the organization's mission and credibility and, if appropriate, work toward increasing the diversity of representation on the board. It should be recognized, however, that token representation is not an adequate response to the issue of diversity.*

Every board should explicitly assume responsibility for stewardship of the organization and, as part of this stewardship, be responsible for each of these eight key tasks. Undoubtedly, organizations will address these tasks in a variety of ways. It is important to reiterate that our intent is not to impose uniform structures or specify particular processes or procedures in fine detail. Our goal is to help boards to lead better and to learn, and to promote resources in the sector for better governance. We

do not want to kill the spirit of "voluntas" – people freely coming together to do good work – by constraining leadership choices or overburdening organizations with regulations. To this end, these recommendations of good practice are directed to the leadership of voluntary organizations to ensure that, as self-governing bodies, their organizations effectively meet their responsibilities. At the same time, we are sending a message to the public that they should expect voluntary organizations to meet certain key responsibilities of good stewardship, although how they appropriately discharge them may vary depending on an organization's capacity, size, mission, and constituency.

PUBLIC REPORTING ON GOOD GOVERNANCE

The public, beneficiaries, donors and governments have an interest in knowing how organizations that have a public benefit and access to the federal tax system govern themselves. Several basic requirements should apply to all organizations that issue charitable receipts.[30] These are: transparency; avoiding conflicts; and some reporting of their activities and finances. But, the capacities of voluntary organizations differ enormously. We propose that, as a condition of registration as a body that can issue federal tax receipts, every organization has three responsibilities. It must:

- *provide certain information to the federal government about its governance, programs and finances;*
- *adhere to a code of ethical fundraising as developed by the Canadian Centre for Philanthropy, or one similar in principle that is publicly available; and*
- *practice transparency, that is, respond appropriately to complaints and requests for information by the public, members or clients.*[31]

REQUIRED REPORTING: THE BASICS

In our Discussion Paper, we recommended quite extensive public reporting on governance practices, partly as a way to demonstrate to donors and the public at large the great achievements of the sector. However, in the consultation process, it became clear to us that the sector's diversity precludes the articulation of a single standard or practice of reporting that is both appropriate and manageable.

The conditions imposed on charities must be compatible with their means.

Conseil de la Philantrhopie

We never intended that uniform stringent reporting requirements be imposed on all voluntary sector organizations. We did intend, however, that all organizations be transparent with regard to their governance practices, with a minimum requirement that the organization be prepared to respond fully to questions, comments or complaints from any stakeholder, including members of the public. Any reporting beyond this minimum would be recommended to the extent that the resources to do so can be found without compromising the mission of the organization.

Two-thirds of the sector have annual revenues of less than $100,000 and half have revenues less than $50,000. In most cases, limited revenues also mean that the organizations have few, if any paid staff to handle the administrative requirements of accountability. *We recommend that small organizations, defined as organizations with annual operating budgets of less than say $200,000, be subject to lesser reporting requirements than larger organizations whose annual budgets exceed this amount.* A system of differential reporting requirements for large and small organizations works well in the U.K., but in Canada today a small charity must supply exactly the same information to regulators as a hospital or university with multimillion dollar budgets and entire departments devoted to compiling institutional statistics. This must be changed.

We recommend that, as a condition of being registered to issue federal income tax receipts for donations, small organizations (with annual operating budgets under $200,000) be required to report on an annual basis the following information to Revenue Canada which would be cross-filed with the proposed new Voluntary Sector Commission. This information would be made public. Note that some of this information will be the same from one year to the next; organizations would only have to update any information that has changed from the previous year. This information is both qualitative and quantitative. It includes:

- *description of the organization's mission, programs and intended results;*
- *financial statements, as approved by the board;*
- *description of fundraising activities over the past year including amount of revenues raised and amount spent on raising them;*
- *description of basic governance structures, including size of board and methods for selecting board members;*
- *disclosure of the code of ethical fundraising to which the organization adheres;*
- *description of the organization's approach to responding to complaints; and*
- *how to get further information directly from the organization.*

REQUIREMENTS FOR LARGER ORGANIZATIONS

Larger registered charities/public benefit organizations should be expected to provide these basics, plus additional information about their governance. We propose that in addition to filing their annual reports, they be required to provide information to Revenue Canada and the proposed Voluntary Sector Commission about how they fulfil the eight key tasks outlined in the good practice guide. This would involve reporting on key indicators related to:

- *the nature of the mission, intended outcomes and strategic planning processes;*

Diversity in size, personnel and purpose may well indicate a need for different levels of reporting and monitoring. While it is important to set some common standards that apply to all organizations, an onerous set of standards and reporting requirements may put too many demands on smaller organizations.

Boys and Girls Clubs of Alberta

- *overview of policies for transparency, including information on the organization's code of ethical conduct and complaints process, and the number of board meetings for the past year;*
- *description of governing structures, including whether an independent nominating and an audit committee exist;*
- *summary of the methods of board stewardship;*
- *evidence of fiscal responsibility, as through provision of audited financial statements; and*
- *methods for board succession and diversity of representation (if applicable).*

Most of this information is already required as part of the T3010 form, but the specifics of how it is reported are not user friendly. ***Thus we further recommend that the T3010 form be reviewed by Revenue Canada, working in full collaboration with representatives of the sector, with the goal of making reporting easier and more relevant.***

Voluntary organizations also told us that a "level playing field" is required with regard to reporting. Since voluntary organizations are required to report more extensively on their structures, operations and financial practices than their private sector counterparts, peculiar inequities arise when both for-profit and not-for-profit organizations are competing for a particular service contract. One recent example is homecare service contracts between organizations and the Ontario government, where there is direct competition between private enterprise and charitable organizations. Because of the differential public reporting requirements, the private enterprise competitor can gain significant information about its charitable competitor, when the reverse is not the case. Therefore, when competitive bidding involves both charitable organizations and private enterprises, ***we recommend that the private sector firms submitting bids be required by the contracting agency to disclose the same level and type of information as is available from the federal government on the registered charitable organizations.***

ACCREDITATION

As voluntary organizations seek to improve their practices, they also seek to communicate their good practices to the public, in an inexpensive and clear way. During our consultations, some organizations expressed the view that accreditation of voluntary organizations would provide such a "seal of approval" that could be easily understood by the public. In fact, some suggested that more sophisticated reporting now required by the United Way means that United Way-funded agencies have met high standards, and that the funding relationship should be promoted as an accreditation in and of itself.[32] If stewardship is the means of creating sound organizational governance from the inside,

external accreditation can be seen as a method of promoting it from the outside. So far, our approach to enhancing governance and stewardship has been to encourage boards to review their practices and exercise leadership in key areas and to set out certain basic reporting requirements for registered organizations. Our analysis now turns to a third route – accreditation – as an approach to better governance.

Accreditation refers to a process by which a national or other overarching body establishes standards; evaluates other organizations or individuals to determine whether the standards are being met; accredits those who meet these standards in their governance and operations; and revokes accreditation for those who do not. Often considered the most rigorous of self-governance models within the sector, accreditation offers the additional advantage that it reassures the public and funders that minimum standards have been met.

In some cases, accreditation is voluntary – a standard that an organization or individual may choose to meet, and if it does, it is recognized as having met the standards. In others, it is mandatory – like a license to practice. In both cases, detailed standards of governance and operation are articulated, and the body seeking accreditation must demonstrate that it is meeting these standards. Usually, accreditation is renewed on a periodic basis, and performance is reviewed prior to renewal. In return for meeting the standards, the accredited body is normally allowed to advertise that it has met the standards and is permitted to use the name of the accrediting organization (perhaps as a local branch) in the case of mandatory accreditation.

Some Canadian examples illustrate how accreditation works. The Canadian Council of Christian Charities offers a Financial Accountability Seal to charitable organizations that provide all required documents and that meet standards in seven areas. These areas are: an active independent board, an independent audit, public financial disclosure, an audit review committee, the pursuit of integrity, a declared doctrinal position, and a declared stewardship policy. Organizations indicate their compliance by responding to questions provided when accreditation is sought and an annual review of compliance is conducted with an annual fee required.

Family Services Ontario offers a similar voluntary program for its own members and for any members of Family Services Canada. Their accreditation process begins with self-review, followed by an on-site evaluation by a review team who prepare a report, on which the local organization is asked to comment. In addition to approving or denying accreditation, the accrediting body undertakes to monitor its accredited members for continued compliance, with detailed reports being required for accredited members half-way through the five-year accreditation period.

Other intermediary organizations use systems of mandatory accreditation for their members. For example, Big Brothers and Big Sisters of Canada administers an elaborate review program that begins with an agency self-assessment and review program, accompanied by a detailed and lengthy "how-to" manual. The review by the national organization which follows determines a member organization's level of compliance with the national body's delivery standards.

Accreditation is a good and useful way to bring organizations up to a standard and to be perceived in a more positive light in terms of accountability. But, there are many questions about how to implement such a process.

Participant in the Saskatoon Consultation

During our consultations, we asked whether mandatory external accreditation could be an appropriate mechanism for ensuring adherence to accountability standards in the sector. In spite of its apparent advantages, our discussion revealed several significant problems with external accreditation. First, such accreditation is often quite expensive and thus is not easily applied to small organizations. Second, it requires the presence of a national or intermediary organization that can set standards, offer accreditation, monitor compliance, and impose real sanctions for non-compliance. There is great variability in the existence of such organizations at the subsector level, and no such organization exists for the sector as a whole. Our conclusion is that accreditation, based on intensive assessments and external evaluation of the type described here, is useful in promoting and reviewing good governance practices, but is likely to remain of limited applicability.

We see as more feasible, particularly on a sector-wide basis, a limited version of accreditation that requires less machinery and expense. This is the process of self-accreditation based on reporting by organizations of how they have met a defined list of standards, such as those suggested previously under Public Reporting on Governance. The standards should, of course include an externally defined list of appropriate guidelines for effective stewardship and governance that have wide acceptance in the sector. The self-assessment program would also extend to how the organization has met the standards of ethical fundraising discussed in Chapter 5. Small organizations report on the basics of good governance practices and larger organizations report on how they meet the full set of guidelines; and this information is publicly available.

The system would be based primarily on self-assessment and self-monitoring: the boards of voluntary organizations, rather than an external agency would be responsible for evaluating compliance (with the defined standards) and would then disclose publicly their adherence (or otherwise) to these guidelines. The new Voluntary Sector Commission that we are recommending would, however, play a key role in the process of standard setting, reporting and disclosure.

The process of self-accreditation would be voluntary in the sense that an organization would not be required to meet a detailed set of standards; however, it would have to report on its practices and explain them, as appropriate. The strength of self-assessment should not be underestimated in our view. Most boards can be counted on to report honestly because they feel responsible for the well-being of the organization. Non-compliance with the guidelines and an organization's own codes of governance will be noticed and noted by members, users or the public. Moreover, once a mechanism of self-accreditation and an easily accessible voluntary sector agency from which information can be obtained are in place, this process would take on a life of its own. In particular, as the system becomes known, donors will check to ensure that organizations to which they are considering making contributions meet the expected guidelines of good governance and stewardship, thereby encouraging accurate reporting and continued self-assessment.

In addition, we encourage the Canadian Centre for Philanthropy and other umbrella groups to continue their development of codes of conduct and other guides for practice that can be widely adopted and followed by voluntary organizations. Such "home-grown" standards are more likely to be realistic because they are based on a deeper understanding of the sector's needs and capacities and to be respected because they are more relevant than standards developed and imposed externally by organizations such as the Better Business Bureau.

CONCLUSION: TOWARD MORE EFFECTIVE STEWARDSHIP

Stewardship is a matter of concern for all voluntary organizations, no matter how large or small, complex or simple. Effective stewardship cannot be legislated and there is no single model that works in every organization. Rather it begins with a commitment by an organization's board to govern appropriately – and to be seen to do so. Policies and practices need to be adapted to individual circumstances. As a starting point we have laid out some general guidelines for adoption and adaptation by individual boards and established a procedure for disclosure.

It works. It is the quickest and easiest way to show if fiscal and human resources are being used to best effect for the benefit of the membership and the community as a whole. "A good time was had by all" does not suffice in today's environment and only by being performance based can sound decisions be made that remove the desire to maintain the status quo.

Girl Guides of Canada, Ontario Council

Stated simply, the ultimate goal of accountability is to demonstrate that an organization does good in a good way. So far, we have looked at matters related to the process of doing good – governing and reporting. We now turn to accountability for the good being done, that is for the outcomes of an organization's programs and services. Voluntary organizations are appropriately required to demonstrate that they are effective. The demand for assessment of outcomes and impacts is increasing: funders set standards as part of service contracts and require results-based performance. In addition, the public, including major donors, are asking voluntary organizations to show that they do, in fact, make a positive difference. Merely being well intentioned is no longer sufficient. Organizations, too, are recognizing that the ability to provide information on performance is motivating for staff and volunteers and is a powerful recruitment tool.

WHAT IS OUTCOME-BASED ASSESSMENT?

As both an accountability tool and a planning tool for services and programs, outcome measurement in its various forms has become a preoccupation for private, public and voluntary organizations in recent years. The trend shows no sign of abating, but its application to the voluntary sector has been difficult. The intent of outcome-based performance assessment is to change the focus of organizations from measuring their effectiveness through examination of activities and inputs or outputs to examining results and outcomes. In other words, it shifts the focus "from how a program operates to the good it accomplishes."[33] *Outcomes* may be defined as the "benefits or changes for participants during or after their involvement in a program."[34] They are differentiated from program *outputs* which are the number of clients served or number of units of service provided. While the intuitive logic in this shift is appealing, its implementation is more complex, and has posed a considerable challenge to the voluntary sector in Canada, as elsewhere.

Our goal is to encourage voluntary organizations to adopt outcome-based performance assessment to the extent possible and to help the sector acquire the requisite expertise and resources to make its use more feasible. Equally important, however, we want to sound a loud note of caution to funders and governments who, riding the contemporary wave of performance measurement, may wish to impose such assessment without full understanding of its limitations. Indeed, inappropriate or simplistic measures may do more harm than good. As a recent study of outcome measurement in the nonprofit sector notes, "Done badly, linking outcomes to funding can shift resources from service delivery to measurement with no offsetting benefit to programs, penalize prevention and development programs and others with harder-to-measure outcomes, promote 'creaming' (selecting participants who are more likely to succeed), inhibit innovation, punish risk taking and discourage interprogram

cooperation."[35] It is evident from experience with its use in the sector that outcome-based assessment is less easily applied in some organizations and programs than in others. In particular, it may be much harder to measure outcomes in prevention programs than in other health or human services.

Although there are a variety of different approaches to conducting outcome-based assessment, all share some common tasks:

- identifying outcome goals;
- identifying or developing of ways to measure progress toward or the achievement of those goals; collecting and analyzing these data; and
- disseminating the outcome assessments to stakeholders and using them in the planning process

IDENTIFYING OUTCOME GOALS

Perhaps the most challenging task for an organization is to identify outcome goals to be measured in the first place. The outcomes need to reflect what an organization is hoping to achieve through a program or service, and at the same time, be relatively easily measured, either quantitatively or qualitatively. Similarly, the goals must be attributable to the programs or services, yet go beyond the outputs. That is, one would seek to measure not how many people participated in a program or service, but what difference the service or program made to the lives of participants.

The creators of outcome measurement for the United Way of America (UWA) have flagged the importance of outcome goals being established or selected by the organization delivering the service, rather than by funders.[36] They suggest than a voluntary organization set its own goals, and that funders (including governments seeking to contract out service delivery) find organizations pursuing the same goals as the funder is seeking. The imposition of outcome goals by funders, the UWA suggests, serves neither the agency nor the funder well.

In responding to an on-line survey on current practices administered by the Panel in early 1998, 31 percent of organizations responding said that the selection of outcome goals was already part of their planning processes.[37] Being articulate about what outcomes they were seeking, they noted, helped them to think more creatively about how to get there, rather than starting with existing programs and deciding from there what outcomes they might expect.

DEVELOPING MEASURES AND COLLECTING DATA

A second, often prohibitively difficult task associated with outcome performance measurement is deciding what measures will be used to assess the outcomes selected. The alternatives include using data collected by someone else as a "benchmark" against

One of the Foundation's concerns is that too many funders are moving toward making funding decisions solely on outcome measures – a move some of the leading evaluation theorists term as "foolish."

The Muttart Foundation, Edmonton

For the most part, voluntary organizations in smaller communities are willing to do program outcome assessments and recognize their usefulness. The barriers are lack of expertise, time, and financial resources. What they need is a simple, doable model that will not take too much time.

Participant in the Halifax Consultation

which progress can be measured; tailoring already-existing data to a more local application, thus establishing a local benchmark; or developing new data sets through the collection of entirely new information.

The benchmark approach has been adopted in Oregon, beginning in one county,[38] and evolving up to the state level. The Oregon benchmarking began by using existing state data, and established goals in relation to those data. For example, the goal might be to reduce over five years existing levels of teenage pregnancy from 20 percent of young women between the ages of 18 and 20 to less than 15 per cent. Since the data have already been collected by state agencies, there would be no additional costs – human or financial – to measuring progress toward this outcome.

The second alternative involves taking aggregated data such as those used in the Oregon exercise, and undertaking a local sample survey to determine whether the local rates are comparable to the state or provincial level and, if necessary, establishing a local benchmark. If the rates are similar, an agency or group of agencies might assume that they could use provincial data to measure progress of a local program or service. The risks are obvious, but it provides some local validation of existing data, and provides a less costly approach than undertaking collection of new data.

In some cases, organizations may have to start from "scratch." Unless an organization or group of voluntary organizations can develop measurement tools that rely on existing data sources, new data may need to be collected. In some instances, data could be ordered as a special run from Statistics Canada, but in other cases a survey instrument or other measures might need to be developed and administered. Such an endeavour would probably require outside assistance, perhaps from academics or firms specializing in data collection. Technological capacity, whether in-house or contracted, is usually a must in order to collect and analyze data in an integrated way.

Some outcomes may be difficult to quantify or to measure at all because the time required for program interventions to be felt as outcomes is very long. While it is evident that true outcome measurement often necessitates longer term tracking of clients, shorter-term measures might also be helpful. For example, in evaluating a training program, an organization may not be able to track the employment and earnings of those who completed it for the decade or more that it would take to determine long-term impacts. However, it is possible for a follow-up survey to determine how its graduates were faring three, six and even nine months later.

It is this level of investment of time, resources and expertise to collect and analyze data that caused the most concern about outcome-based assessment to the organizations involved in consultations with the Panel. Many expressed the fear that their scarce resources would be reallocated from actual program delivery to this sort of collection of data. Similar concerns were expressed about their lack of requisite technology, expertise and human resources.

DISSEMINATING AND USING RESULTS

A third issue is how to use the results of this kind of evaluation effectively. For many organizations we consulted, the requirement to do more with the results than include them in their annual reports seemed onerous. Some recognized that such results could be used to make a stronger case to funders and donors, but none wanted any additional burden of reporting than currently exists. In fact, varying requirements from different funders are already creating an administrative burden on organizations. Some described having more than one funder for a particular program, and having to manipulate findings into two different formats to satisfy the requirements of both. Clearly, a more unified approach to reporting results for all funders would be helpful in overcoming this problem.

These key elements have produced a number of different specific approaches and methodologies for the conduct of outcome-based performance assessment. A discussion of the main approaches used in Canada and elsewhere appears in Appendix II.

RECOMMENDATIONS

We learned from our consultations that there is strong interest in outcome assessment in the sector. Voluntary organizations see the value in assessment of outcomes in helping to design and plan better programs and to demonstrate their value to funders and society in general. And, most want to be able to conduct such evaluations, if they are not already doing so. It is not the motivation, but the practicalities of how to do outcome measurement that is the impediment. The prospect of outcome-based measurement is much more difficult for small organizations, lacking in human and financial resources, than larger organizations, and for some types of programs, notably those whose effects are long term in nature, no matter the size of the organization. To be effective, outcome-based assessment requires training, expertise and research, information technology, financial and human resources, and time.

With this is mind, our recommendations are made in two parts: the first intended to encourage more outcome-based assessment; the second aimed at ensuring funders and governments, which may be mandating or promoting such assessment, provide the requisite capacity and resources.

TO THE VOLUNTARY SECTOR:

Outcome measurement is the way of the future and voluntary organizations would be unwise to ignore it as a passing fad. *We recommend that:*

Voluntary organizations should establish objectives that reflect desired results, rather than activities, and should determine benchmarks or other indicators –

either qualitative or quantitative – against which progress toward achievement of those objectives can be assessed and reported. Results, and progress towards the achievements of strategic objectives should be evaluated annually. The strategic objectives themselves should be reviewed every two years.

Intermediary organizations probably know more about the sensitivities and complexities of measurement of the programs provided by their member organizations than anyone else. *We encourage intermediary associations to undertake research to help develop indicators for their members, create outcome-assessment tools that can be used by their members, sponsor training programs and accumulate data from members to provide a sector-wide perspective on outcomes.*

In suggesting this, we realize that the ability of intermediary organizations to support outcome-based assessment may be constrained by their own limited resources, since they, too, have been hard hit by funding cuts in recent years. But, we encourage them to recognize the valuable leadership role that they might play in this and to do what they can to support their members and the sector as a whole in undertaking outcome-based assessment.

In promoting research into the development of appropriate measures and assessment processes, governments and universities could also play a much greater role than they have to date.

Not only does the lack of funding for organizational infrastructure impede our ability to fully maximize the impact of individual programs (because of inadequate supervision and volunteer recruitment), it also limits our ability to be as flexible and responsive to needs as we would like to be.

St. Christopher House, Toronto

TO FUNDERS:

Acquisition of expertise, tools and training and collaboration are vital as organizations learn how to do outcome-based assessment and as they actually implement it. In most instances, a voluntary organization cannot do this alone, but needs the help of funders, research institutions, and governments.

Funders should:

- *provide multiyear financing to permit the implementation of strategic objectives and consistency in programming, thereby allowing outcome-based assessment to be carried out in an on-going way;*
- *ensure that grants or contracts cover the costs of evaluation;*
- *work with voluntary organizations to develop appropriate methods and measures;*
- *help build capacity in the sector, including training, assisting with technology, and communicating innovation through the sector;*
- *pool resources, as appropriate, to create adequate investment in larger assessment and social auditing projects; and*
- *do their own performance assessments.*

Governments and other funders also need to ensure that they are not inadvertently hindering effective performance or evaluation by undercutting the organization capacity and infrastructure that is essential for outcome-based measurement. In particular, they must ensure that they are not undermining effective stewardship or micro-managing by the terms and conditions of their contracts and grants. What many funders consider "overhead", ineligible for funding, are in fact the basic resources needed for outcome assessment, board development, and the management of volunteers.

We recommend that funders

- *take into account the costs associated with the core operations of voluntary organizations, including the staff and other resources required for training, coordination and management of volunteers, management and board development needs, and information technology. In requests that include support for management of a volunteer component, funders should consider requiring evidence that the organizations has adopted human resource policies concerning the recruitment, preparation and oversight of volunteers.*

COLLABORATION WITHIN THE SECTOR

In our examination of outcome-based assessment, we heard about an emerging issue for many organizations: the growing need to collaborate with other organizations to reduce costs, provide better services to clients, and undertake complex outcome-based assessment. Collaboration is taking a variety of forms including sharing of administrative support and office space, joint programming among organizations serving similar constituencies, partnerships and, in the extreme, organizational mergers. While partnerships or mergers that are forced upon organizations by funders generally produce unhappy marriages, funders can constructively facilitate such collaboration.[39] ***In the cause of assisting voluntary organizations which are themselves interested in developing collaborative arrangements, including mergers, we recommend that funders support this process by providing resources and by lending guidance and expertise, while respecting the autonomy of organizations and leadership of boards.*** We are in no way arguing for mandated collaboration or rationalization of the sector, but to foster such processes where they have been initiated by voluntary organizations.

CONCLUSION: RIGHT BALANCE

In sum, it is important to recognize both the value and limitation of outcome-based assessment. We clearly understand it to be a tool, not an end unto itself. Its goal is to provide useful information not only to funders, but also to organizations and the sector as a whole, so that their work can be done more effectively. The danger comes when outcome-based assessment is applied simplistically or mandated by funders without consideration of the nature of programs, inherent difficulties of measurement, or organizational capacities to implement and sustain it.

We believe that system fragmentation is the core issue and that both its causes and its solutions lie at the macro, not the micro level. It is the failure of governments and other funders to adequately play their role as managers of the system, which has led to this fragmentation…We believe that alliances between, and mergers of, voluntary organizations can, in some cases, address these concerns and strengthen the organizations themselves.

The Society for Manitobans with Disabilities

Fundraising, while generally considered from the perspective of the need to have the money to do the good works that the voluntary sector does, serves other, less obvious goals as well. It is an opportunity for organizations to engage people in their work, both established donors and those who may take an interest in an organization for the first time. It gives individuals an opportunity to facilitate the voluntary work of others, making a concrete contribution to people, issues or programs that have a special importance to that individual. It gives those being asked to donate a chance to act with generosity in their communities, and those who are doing the asking to explain and communicate their priorities. Thus, philanthropy is about more than collecting dollars; it is also about building communities of interest and support.

In this section, we explore accountability issues around the ways in which voluntary organizations raise money from individual Canadians. Fundraising, perhaps more than any of the other activities of voluntary organizations, is under enormous public scrutiny. The solicitation of funds is the only contact that many people have with voluntary organizations and their impression of the sector is shaped by this. Cuts in existing funding and rising demands for services have created fierce competition for limited dollars and ever greater innovation in fundraising methods. Not only must voluntary organizations compete with each other, but they face massive campaigns by large institutions – particularly hospitals and universities – and by governments themselves which are seeking charitable dollars to support certain public services. As a result, people are feeling besieged by requests for money. Some practices, such as the use of commission-based fundraisers, may be at odds with public expectations about how voluntary organizations should raise money. In other cases, public expectations about how much money voluntary organizations should spend on fundraising may be unrealistic because it is often forgotten that it takes money to raise money.

ENSURING ETHICAL FUNDRAISING

Ensuring ethical practices in fundraising is very important in maintaining public confidence in the sector and in encouraging people to continue to make donations. To date, there is no evidence that such confidence has declined, at least as indicated by continued high levels of donations from individuals.[40] The sector cannot afford to be sanguine, however, about public perceptions of fundraising.

Ensuring the confidence of the donor is not the only concern. Voluntary organizations themselves are, in a sense, consumers of fundraising which has become a highly professional and commercial activity. Large numbers of voluntary organizations purchase fundraising services from private sector companies and, in some cases, they end up paying large percentages to the for-profit fundraiser. Thus, ethical conduct on the part of fundraising firms is an important aspect of accountability.

One of the best protections is a well informed donor. For this reason, accountability in fundraising is closely linked to issues of transparency: potential donors need easy access to reliable information about specific organizations so that they can make informed giving decisions.

We have identified three primary issues of accountability related to fundraising:

- promoting ethical fundraising by voluntary organizations;
- promoting ethical conduct by for-profit fundraisers; and
- educating the donor.

In formulating proposals in each of these areas, our goal is to put the well being of the sector ahead of the interests of any specific organization.

There are two primary ways in which voluntary organizations can be encouraged to adhere to ethical standards of fundraising: through government regulation and self regulation.

BACKGROUND: HOW CHARITIES FUNDRAISE

In spite of concerns about fundraising practices, the public knows relatively little about how the sector is funded. Because of the number of dinner hours that have been interrupted in their households, for instance, many Canadians probably think that telephone solicitation is a major form of fundraising by voluntary organizations. In fact, telemarketing is one of the least used fundraising strategies in the sector.

A 1995 survey of fundraising practices of non-religious charities in Canada undertaken by the Canadian Centre for Philanthropy and the Canada West Foundation provides a useful context to a discussion of fundraising.

- In terms of dollars raised, fundraising is dominated by the largest charities: 77 percent of all funds raised from individuals go to charities with revenues greater than $1.5 million. In contrast, only 5 percent of all revenues raised from individuals go to the smallest charities, although these account for 55 percent of their revenues.

Most Frequently Used Methods:	Most Revenues Raised From:	Most Cost Effective:
• special events	• direct mail	• workplace giving
• charitable gaming	• special events	• planned giving
• product sales	• planned giving	• direct mail
• direct mail		• gaming
		• special events
		• product sales

- The average cost of fundraising as a proportion of monies raised is 26 percent; however, 50 percent of charities have fundraising costs of 12 percent or less of revenues raised.
- There is great variability in how costs of fundraising are calculated: 33 percent of the survey allocated some overhead expenses as part of fundraising costs, while 61 percent did not. There is a strong sense that standardized accounting would be useful.
- Boards generally do not take an active role in policy issues related to fundraising. While most large charities (72 percent) evaluate the cost effectiveness of their fundraising practices, only 54 percent of small charities do so.
- Standards of ethical fundraising practices had already been implemented by 41 percent of the charities in the study; nevertheless, there was strong support for improving practices with 86 percent backing the idea of ethical standards for fundraising.

Michael H. Hall, *Charitable Fundraising in Canada*. Toronto: Canadian Centre for Philanthropy, 1996.

GOVERNMENT REGULATION

First, we examined the effectiveness of government regulation. The regulation of voluntary sector fundraising is primarily under provincial jurisdiction. Only one province – Alberta – has chosen to implement this authority by enacting legislation. Alberta first began regulating charitable fundraising through its *Public Contributions Act* in 1951. Its early regulations were similar to those in many American states and were more stringent than those in place today. Not only were voluntary organizations which were fundraising in the province required to register and file certain information, but they had to obtain prior authorization before a fundraising campaign could begin.[41] In response to a court challenge, however, the legislation has had to be tempered. Courts in both Alberta and the United States have ruled that strict regulations on fundraising are a violation of free speech and are a heavy-handed means of dealing with concerns about fraud. The clear message of the courts is that legislative restrictions on fundraising must not give governments broad discretionary powers, but must address reasonable and specific standards.

In general, legislation that regulates fundraising typically can require:

- registration by any voluntary organization that seeks to raise money above a specific amount in the jurisdiction or that uses for-profit fundraisers (who must register as well).
- licensing and bonding of commercial fundraisers. In addition, voluntary organizations that use commercial fundraisers must have written agreements that specify terms and conditions, including how much the fundraiser will be paid.
- disclosure of information. Commercial fundraisers and voluntary organizations must disclose certain basic information, including the charitable purpose for which contributions will be used, the cost of fundraising, and if a commercial fundraising company is involved, its name and whether it is paid a flat fee or a percentage. Upon request of the donor, a copy of the most recent audited financial statement and information on the percentage of the gross contributions that will be spent on the charitable purpose must also be provided.
- civil remedies. Any donor may apply to the courts for an order compelling the voluntary organization to use his or her contributions for the purpose stated in the solicitation.

A number of serious flaws with most legislative approaches to regulating fundraising have emerged:

- compliance rates are low. Few of the organizations and commercial fundraisers who should register actually do so. In particular, many small and national organizations simply do not realize that they should register in that jurisdiction.
- public awareness of the legislation is low. Although the intent is that prospective donors would call the government agency responsible to see if a soliciting organization has registered, few do so.
- the resources for effective enforcement are inadequate.

- legislation cannot deal effectively with the emerging issue related to use of the Internet. It has been estimated that there are over 300,000 web sites for non-profit organizations on the Internet. The Internet has allowed voluntary organizations to provide information about their causes and activities and, through the purchase of electronic mailing lists, to reach potential new contributors. This has particularly helped the smaller charities to establish a greater presence among bigger players. But use of the Internet has also rendered geographical jurisdictions irrelevant. It is not clear, for example, whether a voluntary organization soliciting funds via the Internet has to register in any particular jurisdiction under provincial or state fundraising laws. Increased use of Internet fundraising could also significantly raise the costs of enforcement.

Although we are not opposed, in principle, to reasonable provincial legislation governing fundraising, we emphasize that legislation which is not widely known or enforced is of little use. Given the reluctance of most provinces to enter this field and the generalized streamlining of government, it seems unlikely that governments will spend much money on advertising or attempting to enforce such legislation in the immediate future. Thus, we look to voluntary codes and self-regulation to supplement basic government rules and provide more substantial standards and effective enforcement.

SELF-REGULATION: A CODE FOR ETHICAL FUNDRAISING AND FINANCIAL ACCOUNTABILITY

Ethical conduct in fundraising and sound financial management by voluntary organizations cannot, we believe, be effectively regulated by governments alone. Voluntary organizations and their governing boards must control and hold themselves accountable for their own practices. As noted above, one of the major problems of promoting ethical fundraising is that many boards have not assumed an active role in setting policies governing their organizations' practices. To encourage a more active role by governing boards, the Canadian Centre of Philanthropy (CCP) has led an initiative to develop a sector-wide model code for fundraising ethics and accountability that the Panel strongly supports. The CCP held consultations with the sector on this model during the fall of 1997. In early 1998, the proposed code was revised and implementation begun. The intention is that governing boards of voluntary organizations will adopt and adhere to the code and that it will become widely recognized by organizations and donors as the expected standard.

We strongly encourage all voluntary organizations that raise money from the public to adopt the code of ethical conduct developed by the CCP, or an equivalent code addressing the same issues, through a formal resolution of the board, and to report publicly on so doing. In sum, the CCP's Ethical Fundraising and Financial Accountability Code requires that a voluntary organization:

- respect donors' rights to disclosure of truthful information and their rights to privacy;

One thing is for sure, the people who, without any previous training and adequate experience, suddenly become "specialists" of charitable organizations' fundraising, and other campaigns of the kind, should undergo a thorough scrutiny in order to protect the public. We must not lose sight of the fact that a code of ethics is ultimately directed to protecting the public.

Conseil de la Philantrhopie

- investigate complaints promptly and fairly, and report results of the investigation to the complainant;
- manage responsibly funds entrusted by donors; and
- report their financial affairs accurately and completely.

A complete copy of the code appears in Appendix II.

A voluntary code places the onus on individual organizations to act appropriately, rather than on monitoring and sanctioning by an external agency. The effectiveness of such codes depends not only on organizational "buy-in," but on raising public awareness and expectations that this is the standard of behaviour. ***Toward both ends, we recommend that, as a condition of registration for tax credit status, a voluntary organization must adopt and renew every two years, a code of ethical fundraising and financial accountability similar in principle to the code developed by the Canadian Centre for Philanthropy, the contents of which would be publicly available.***

We agreed that percentage based fees should be banned and that the public should be made aware of these practices so as to reduce their application.

Small Group summary from the Regina Consultation

It should be noted that adoption of the CCP code would prohibit two controversial practices: percentage based fundraising (ie., where the fundraising company takes a percentage of the money raised, rather than a flat fee) and the selling of donor lists. Both limitations would primarily hurt small organizations which are more likely to use these methods, although fewer than five percent of them do so. However, there is a widespread public perception that these practices are unethical.[42] We therefore think that their continued use would hurt the reputation of the sector as a whole. Thus we have put the interests of the health of the sector before the interests of specific organizations in agreeing with the position taken by CCP and by the National Society of Fundraising Executives (NSFRE) that percentage or commission based fundraising and selling donor lists are not acceptable practices.

THE CONDUCT OF COMMERCIAL FUNDRAISERS

As consumers of for-profit fundraising, voluntary organizations also need some protection. Before proceeding with specific recommendations, it is important to clarify to whom our recommendations apply. Four distinct categories of "fundraisers" work with voluntary organizations:

- for-profit companies hired to develop and manage a fundraising campaign and, on occasion, to actually collect the money raised. We refer to these as "commercial" fundraisers.
- permanent staff of voluntary organizations whose main job is to manage the organization's fundraising activities, most of whom are likely to be certified as "professional" fundraisers through membership in professional associations and adherence to their codes.

- front-line staff, volunteers or paid individual contractors who do canvassing, door- to-door or by telephone, for donations.
- board members and staff who plan and implement fundraising activities as ancillary to their other roles.

In the following discussion, our recommendation is addressed only to the first category – the for-profit commercial fundraiser hired on contract by a voluntary organization.

The main situation in which voluntary organizations may be vulnerable to unscrupulous commercial fundraisers is where the contractor not only plans and manages the fundraising campaign, but actually collects the money. To protect against a contractor absconding with the money, we recommend that ***commercial fundraising companies that directly collect fundraising revenues for campaigns in excess of $25,000 be licensed and bonded, as is currently required in Alberta. A condition of licensing could be adherence to a professional code of conduct, such as that promulgated by the NSFRE.***

THE CONDUCT OF PROFESSIONAL FUNDRAISERS

Fundraising is quickly becoming a professional activity with its own process of self regulation. There are several associations in Canada representing the second category of fundraisers outlined above – "professionals." These associations, such as the NSFRE and the Canadian Association of Gift Planners, have their own codes of conduct to which their members must adhere as a condition of membership. Among other requirements, these codes encourage:

- full disclosure of information;
- avoidance of conflict of interest;
- respect for confidentiality of privileged information; and
- avoidance of percentage-based contracts.

We recognize and support the valuable role played by these professional associations in raising standards of professional conduct in the fundraising field. Voluntary organizations are wise to hire fundraisers to manage their campaigns who are members of these associations. The continued self-regulation of professional fundraisers is more effective, in our view, than any attempts by provincial governments to regulate their conduct.

An informed public is one that knows the best questions to ask when approaching an organization. Good charities want educated consumers, as they quickly become enthusiastic supporters of our work.

Family Service Association of Metropolitan Toronto

Organizations recognize the importance of public and donor awareness, but are challenged as to how to do this adequately.

Participant in the Winnipeg Consultation

EDUCATING DONORS

An informed donor is one of the best ways of promoting ethical conduct. For this reason, enhancing the overall transparency of the sector and providing easy access to information is one of our top concerns. We have proposed that information (in plain language) about a registered charity's governance, program activities, and fundraising be required to be filed with the new Voluntary Sector Commission. Such information could include whether an organization has completed a self-assessment and met the criteria for self-accreditation. For ease of access, this information would be available on the Internet or by fax or mail from the Commission. And, of course, it should always be easily obtained (perhaps with a reasonable fee to cover photocopying and mailing) from individual voluntary organizations. An important role for the new Commission is not only to provide easy public access to information, but to inform donors and expand their knowledge about the sector and about philanthropy in general.

There is also an onus on the potential donor to learn to give wisely and to ask questions before giving. Several organizations, notably the Canadian Centre for Philanthropy, provide useful advice to donors about giving. ***We recommend that donors follow the guidance offered by the Centre's publication, Give Generously and Wisely. Donors who are unfamiliar with, or uncertain about, an organization seeking their support should ask questions before donating concerning:***

- ***the name of the organization;***
- ***the nature of the organization's activities and the purpose for which donated funds will be used;***
- ***whether the solicitor is a volunteer or paid, and if paid, whether the payment involves a commission or percentage of the amount donated; (Donors should be aware that commissions and percentage-based compensation for fund raisers are generally considered to be unethical.)***
- ***how to obtain additional information about the organization; (Donors who wish to know more information about the organization's finances or governance should make further inquiries before donating.) and***
- ***whether the organization has adopted a code of ethical fundraising.***

FURTHER CONSIDERATIONS

Our recommendations concerning fundraising are aimed primarily at encouraging boards to be active in setting fundraising policies and strategies, promoting public visibility of fundraising practices and ensuring ethical conduct. We have not dealt with two of the most serious issues of fundraising in the sector today, both of which were raised during the consultations. The first centres on the accountability concerns

surrounding the generation and distribution of funds from gambling operations. Although the magnitude and complexity of these issues were beyond the scope and time of the Panel, we acknowledge their seriousness and recommend further study be initiated by the federal and/or provincial governments to address them.

The second concern relates to direct competition from governments for fundraising dollars. The voluntary sector has long felt the impact of massive fundraising campaigns by the large institutional charities – hospitals and universities – that may scoop up millions of dollars from a community in a single campaign, earning them the reputation as fundraising "trawlers" among a fleet of dinghies. We are not disputing that the needs of hospitals and universities are legitimate and are growing given the cutbacks in government support most have experienced, but we encourage them to discuss and coordinate in advance their major campaigns with other voluntary organizations in the community. In addition, governments themselves are turning to fundraising from the public, rather than using general tax revenues, to pay for special needs, such as ice storm relief, or particular projects, such as the Canada Innovation Foundation or wildlife conservation. Although the intent is not to undermine donations to the voluntary sector, such competition seems like a triple whammy given the simultaneous government downloading of services and funding cuts of recent years. As noted in our earlier discussion of capacity building, ***we urge governments to engage in a discussion and reach some understanding with sector leaders about direct government competition for fundraising.***

LOOKING TO GOVERNMENTS

The logic of this paper has been to work from the inside out. So far, we have concentrated on what individual organizations and the voluntary sector need to do to enhance their own governance and accountability. We now turn to the broader statutory and supervisory frameworks that are the responsibility of governments. In the following sections, we examine four areas that we think are in need of substantial change:

- access to the federal tax system
- the institutional machinery that supports the voluntary sector
- the regulatory framework for financial management
- the legal framework

6. ACCESS TO THE FEDERAL TAX SYSTEM

It is imperative that the legislation be in accordance with our modern Canadian values. It doesn't make much sense to come under the yoke of a law which is four hundred years old. On the other hand, we should continue to protect non-registered organizations in order to keep our communities alive with their diversity.

Centraide/United Way Drummondville

Our first concern is that there is a need to modernize the federal tax system and provide more systematic, clear and contemporary guidelines for the determination of who qualifies for tax benefits.

Canadians recognize the value and the public benefit of voluntary organizations by granting them official status as "charitable" and supporting them financially using the tax system. Organizations that are deemed to have public benefit because they serve charitable purposes are registered as charities under the federal *Income Tax Act*. In addition to charities, amateur athletics and national arts service organizations have also been deemed to be qualified donees under the Act. Registration exempts these organizations from paying income taxes and allows them to give individuals and corporations receipts for donations that can be claimed as tax credits or deductions, respectively. The goal is to provide an incentive for people to give to causes that we, as citizens, deem to be of benefit to society. In exchange for these privileges, there are strict reporting requirements and accountability rules, including limits on political activity and requirements to disburse on charitable activities a large proportion of their donated revenues.

A second category of organizations, "non-profits," also enjoys certain privileges under the *Income Tax Act*, but they are less regulated. There are few barriers to operating as a non-profit, other than demonstrating that there is no intent to make a profit. Although nonprofits do not pay income tax except on investment income, they cannot issue tax receipts for donations.

The status of registered charity confers enormous benefit: being able to offer a tax credit for a portion of the contribution is a powerful incentive to giving. It also provides a

sense of legitimacy to the public for an organization's purpose. The means of determining which organizations get to enjoy the privileges of the federal tax system is contentious and the rules governing it are neither clear nor consistent; nor, in all likelihood, are they necessarily compatible with contemporary Canadian values. In part, the problem arises from the fact that people define charity for themselves by what they do – in working toward a public benefit by helping others – regardless of the specifics and complexities of the law. As we will see, on-the-ground perceptions of what is charitable often conflict with what is, in fact, legally defined as a charity. The problem is exacerbated by the fact that in Canada the definition of "charity" as applied by Revenue Canada and as interpreted by the courts is more restrictive than in most other common law countries, and particularly in comparison to the USA and the UK.[43]

THE CURRENT DEFINITION OF CHARITY

There is no precise definition of charity to be found in the *Income Tax Act* nor any other Canadian statute. Rather, charity is a complex legal construct that derives primarily from common law. Its roots lie in an English law of 1601 called the Statute of Elizabeth. Although this Act set the basis for the contemporary concept, it was clearly a reflection of its own times. It included as charitable certain activities, such as the repair of bridges and highways, that today we consider to be the proper role of governments. The Act also included reference to such activities as "the marriage of poor maids" and "aid to persons decayed," that are clearly no longer relevant. An 1891 judgement by the House of Lords in the *Pemsel* case clarified and expanded the concept by categorizing charitable purposes in a manner that is still in use today. Four categories of charitable activity were identified: relief of poverty; advancement of education; advancement of religion; and other purposes beneficial to the community.[44]

This concept of charity has continued to evolve in incremental ways over time as the courts made decisions on particular applications in accordance with changing circumstances.[45] For example, a decision in 1996 found that the development and operation of a computer freenet was eligible for registration as a charity because the information highway can be thought of as analogous to the libraries and highways mentioned in the 1601 Act. The common law has developed several other tests, in addition to the nature of the activity undertaken. For instance, charities in the community benefit category must pass a public benefit test that considers how many people benefit from the service offered and whether there is any tangible benefit to the community at large. Clearly private benevolence is excluded from qualification as charitable. But certain ambiguity exists as to how large and inclusive the community that benefits from a charity's activities must be: for, example, can the community which benefits be limited according to gender, ethnicity or language?[46] Other requirements include that there be an essential element of altruism; that the organization be established exclusively for charitable purposes and that the purposes be established in a precise, rather than a broad and vague manner.

As judges themselves have noted, the interpretation of what constitutes a charitable endeavour remains "obscure and not always entirely consistent."[47] In addition, the legal notion of charity does not always accord with public perceptions of the concept. Revenue Canada, by most accounts, has tended to be restrictive in its use of the concept, as one would expect of a tax-raising department. The point is that the case law means that some communities, needs and activities that many Canadians consider to be central to our democracy, are excluded from being registered as charities. These include diverse organizations that promote, for example, equality for women, race relations, environmental awareness or protection, community economic development, or volunteerism itself. As Arthur Drache, one of Canada's most experienced charities lawyers, argues: "The fact of the matter is that while the courts pay lip service to the oft-stated judicial view that the term is one which 'evolves' over time, presumably based upon changing social and economic circumstances and societal objectives, the definition in Canada has evolved so slowly as to appear almost permanently rooted in the 19th century."[48] The impact of the restrictive definition has become particularly acute during the 1990s when governments ceased to provide many services, leaving individuals and communities to provide these services out of philanthropic dollars and volunteer time. Such downloading has made tax relief for public benefit organizations a central public policy issue.

A second problem of relying on case law and the courts is that the onus – and the costs – of obtaining a more contemporary definition are on groups seeking to be included. Consequently, it is often marginalized or minority communities, such as immigrant and visible minority women, who must bear the costs of a court case intended to obtain a more expansive definition. Not surprisingly, only about 20 cases of the hundreds that might be contested as a result of being denied charitable status by Revenue Canada have been heard by the Federal Court and only one has been appealed to the Supreme Court. The need to use the courts to obtain a more contemporary definition raises a question of fundamental fairness of who should bear the cost. It also raises the question of the desirability of the federal government being involved in legal action against groups such as a society of immigrant and visible minority women or Volunteer Canada who are struggling to obtain a more currently relevant decision from the courts. Even when Revenue Canada is happy to lose in order to have a more flexible definition, we need to ask if this is the best use of the time and resources of the courts. More basically, why should the courts be deciding, based on law derived from English legislation almost 400 years old, what a democratic nation wants today?

A third problem is the lack of transparency of the process of registration. Under the *Income Tax Act*, individual fiscal matters are considered to be private. Thus, the application of any particular organization for charitable status is confidential. This means that all correspondence, all materials filed and discussions held between Revenue Canada officials and an organization concerning charitable status are private. Revenue Canada officials cannot comment on any specific application for charitable status or reveal the reasons for approving or disallowing an application. Only since early in 1998 has Revenue Canada been able to release the grounds for revocation of status

for a particular charity. Although the Charities Division of Revenue Canada provides occasional interpretation bulletins, these are not extensive policy documents. As Drache again notes "many of the important changes come about 'privately', namely when Revenue Canada sanctions (or refuses to sanction) a particular course of action…[Q]uite often the government's policy is not widely publicized and we have found out, essentially by accident, what that policy is."[49] In addition, the process of registration is generally slow, ranging from about four months if the application is straightforward to several years if there are complications.

The result is that the policy governing the definition of charity in our democracy is poorly grounded, and poorly understood by the general public. Both decisions on individual cases and overall policy guidelines lack transparency. Given problems of definition and changing views about self-help and community empowerment, the very term "charity" has acquired negative connotations among many voluntary organizations in Canada, particularly in Quebec. Therefore, we conclude that Canadian governments must, through a democratic process that involves the voluntary sector, arrive at a more appropriate definition and language to describe voluntary organizations that provide a public benefit and have been granted the right under the *Income Tax Act* to issue tax creditable receipts for donations.

MODERNIZING ACCESS TO THE FEDERAL TAX SYSTEM

The need for a new policy governing registration under the federal tax system is widely shared by the voluntary sector. In taking this proposal to consultations with the sector, we had initially assumed that the sector might be divided – that those already in the charity "tent" would be opposed to expanding access to registration for fear of losing fundraising revenues which would have to be shared across a broader pool. We were wrong. Indeed, with the exception of a few lawyers firmly rooted in the common law tradition, our consultations revealed a consensus within the sector broadly shared by large and small organizations, in every province, and across its diverse parts. For the sector, the rationale for change revolves around fairness, building stronger communities that can take greater responsibility for themselves, and strengthening civil society.

The determination of which organizations get the full benefits of the federal tax system should signal to all Canadians what we most value in civil society when it comes to providing a tax based incentive for giving. This determination and the assignment of privileges and responsibilities associated with it is inherently political, involving tradeoffs in values and in expenditures. It therefore should be decided as public policy by legislatures, not by the courts.

We strongly believe that the policy determining which organizations get to issue tax-creditable receipts needs to be clarified, and made coherent with contemporary

We need the capacity to recognize what are widely considered to be a range of valid and valuable civil society actors. The dynamic between the state and civil society needs to be framed by legislation: this is an essential and legitimate role of the state, which we should not undermine.

CARE Canada

We need to lose the term 'charity". We aren't taken seriously or we are defined in terms that are too narrow.

Participant in the Montreal Consultation

As a national charity operating across Canada, there would be real concern if each province defined charity in a different way. Developing consistency and compatibility in all federal and provincial legislation and regulation affecting charities would provide significant operating efficiencies.

The Victorian Order of Nurses for Canada (VON Canada)

Canadian values. We must establish a new process for determining which organizations qualify for the benefits of status under the *Income Tax Act*. The definition must be made transparent *and* open to periodic change. Thus we are recommending establishing a process by which these two goals can be achieved.

It is important to recognize that we are not proposing to recast the common law definition of charity. Rather we suggest a "charity-plus" model, as advocated by Arthur Drache.[50] The core of a new policy would be the existing definition of charity, to which a list of other "public benefit" purposes would be added as also qualifying for access to the federal tax system. Of course, decisions about qualification for new registrations would still need to be made on a case by case basis by the federal government. We recognize that even with an expanded and clarified definition of public benefit organizations, there could still be some controversy in individual cases that would be appealed and decided by the courts. In these instances, the appeal process for voluntary organizations whose applications for registration have been denied should be as accessible and low cost as possible. It is also important, in our view, that for the "grey zones" of a charity-plus model, the federal government publish regular policy bulletins that provide guidelines and interpretation of the legislated concept. Thus, while there remains a role for the courts, its significance would be diminished and be more focussed on adjudication than implicit policy setting.

A PROCESS

The characteristics of a voluntary organization that qualifies for tax credit status under the *Income Tax Act* should be clarified by Parliament and subject to a statutory review at ten year intervals. This would provide both transparency and clarity, as well as the continuing possibility of revising the concept to cohere with changing Canadian values. One of the important benefits of debating and reviewing at periodic intervals such a definition is that it would help to deepen the understanding of the concept and promote greater appreciation of the value of the voluntary sector to Canadian democracy.

Although the Parliament of Canada has the authority to grant tax credit status under the *Income Tax Act*, other matters concerning voluntary organizations are under provincial jurisdiction. However, with the occasional exception of Ontario, the provinces have generally accepted Revenue Canada's decision on charitable registration. Indeed, one of the strengths of Canadian charities is that there has been a uniform system of registration which has provided nation-wide consistency. Maintaining an integrated system of registration is important because geography matters less and less to how voluntary organizations operate and, in particular, to how they raise funds. There was a strong consensus among voluntary organizations in *all* provinces, on this point. The Internet and direct mail fundraising permit a charity incorporated in Manitoba, for example, to easily solicit funds and public support in British Columbia or New Brunswick. Thus it would be confusing to the public,

administratively inefficient and ineffective in terms of enforcement to have separate provincial legislation defining what constitutes a charity. The provinces should participate in developing a new concept of charitable/public benefit status for the federal tax system and in its periodic review, and be encouraged to adopt similar policies.

We propose the following process for establishing a legislated definition:

- *A task force (involving representatives of government and the voluntary sector with the sector as a full and equal partner) be established to develop a modernized concept.*
- *This proposal is presented to Parliament which debates and adopts a definition which is incorporated in the Income Tax Act.*
- *The definition should be reviewed periodically to meet changing circumstances and values. Review by a task force of government and sector representatives every ten years should be made mandatory in the legislation. Individual organizations that have been denied status could still appeal to the courts if they believe that the policy has been misapplied by the agency responsible for registration. The definition having been decided upon by Parliament, however, such cases in the future would be less significant in shaping the direction and content of the policy.*
- *A province could adopt the same concept for purposes of governance and incorporation in parallel provincial legislation. Of course, it could also chose to define charity in ways that differ from the federal government. In the interests of enhancing public transparency and understanding, however, we urge both levels of government to find as much common ground and concordance as possible between their application of definitions, particularly because eligibility of federal income tax credits will continue to be of greatest importance to voluntary organizations.*
- *The registration process should be open and transparent. All applications for and decisions regarding registration should be considered public information. The federal government should routinely publish policy guidelines for interpretation related to "grey" areas between legislative reviews.*
- *The court of first instance for appeals of federal government decisions on individual cases should be changed from the Federal Court of Appeal to the Federal Tax Court in order to make the appeal process more accessible and less expensive.*

We believe that a modern democratic process of deciding which voluntary organizations get full access to the federal tax system will go a long way to promoting greater transparency and credibility of the sector.

> Canada's ability to offer opportunity and security to its citizens is tied to the vitality and capacity of our voluntary sector. Alongside the public and private sector, the voluntary sector constitutes the third pillar of Canadian society and its economy. . . . Today, a new balance is emerging, based on the growing recognition that all three sectors are integral to our quality of life, the vibrancy of our communities and the vitality of our civic and democratic institutions.[51]

The institutional machinery that supports and manages the relationships between the voluntary sector and governments and that will be needed to forge the new balance sought by the federal and other Canadian governments is antiquated. It should be redesigned in order to better respond to and facilitate the new realities of how both governments and the sector work. This goes hand in hand with the task of reviewing and expanding the concept of registered public benefit organizations with full access to the federal tax system, discussed in the last section, but is not dependent upon the latter. Redesign of the institutional machinery could and should proceed independently of the question of how charity is defined.

THE NEED FOR CHANGE

The main institution, at the federal or provincial level, that manages and oversees government's relationship with the sector, the Charities Division of Revenue Canada, was established in 1967 with one main purpose in mind – to register charitable organizations and to regulate, monitor and audit their financial management and related activities with an eye to preserving the integrity of the federal tax system. The intent was not to support or facilitate the work of the sector, but to be the watchdog. Although Revenue Canada officials are often more than willing to offer advice to registered charities regarding how they meet the regulations and complete the required forms, many organizations do not ask because they fear Revenue Canada – fear that by asking questions, they may trigger an audit response by the regulator.

Because voluntary organizations enjoy privileges under the tax system, it is obvious that there is need for some reporting and monitoring of their activities. But, promoting good governance and accountability entails much more.

The idea that the state should have a hand in supporting voluntary organizations as vehicles for citizenship has a long history in Canada and is one of our distinctive approaches to civil society. At the time when the nation was developing a legal concept

of Canadian citizenship in the mid 1940s, the Department of Secretary of State, whose origins dated back to confederation, began a citizen training program that included support for voluntary organizations. Within a few years, the Department started providing grants to voluntary organizations to deliver services and fight for their visions of Canada, even though their interests often led them to criticize government policy.[52] Over the years, the Secretary of State expanded its granting programs to advocacy and service organizations working to support constituencies of minority official languages, women, multiculturalism, persons with disabilities and Aboriginal political mobilization. The Department was eliminated in 1993 and its programs either wound down or transferred to other departments. Other individual line departments have important and ongoing relationships with voluntary organizations that deliver their programs or are stakeholders, but none has a sector-wide perspective. Thus the Charities Division of Revenue Canada is now the only agency concerned with the sector as a whole. And, it has changed little in mandate or manner in the past thirty years.

During this period, however, the voluntary sector has grown enormously from a mere 1,040 organizations in 1963 to more than 78,000 in 1999.[53] Its contributions to employment and the economy have risen commensurately. The sector provides more services than ever before and, with a more diverse population, it also serves more communities than ever before. The significance of voluntary organizations as the vehicles through which Canadians exercise not only their rights, but responsibilities of citizenship is central to democracy. In sum, over this period the voluntary sector has grown from relative obscurity to being seen as the third pillar of our society and economy.

What government does and how it does it have also changed in fundamental ways since 1967. Alternative service delivery, partnerships, citizen engagement, horizontal communication and transparency have replaced direct government production of services, command and control styles, hierarchies and bureaucratic stovepipes. As the second Liberal Red Book notes, a new balance is emerging in which governments need a strong, well managed sector that maintains high levels of public trust. The government machinery needs to be redesigned, in our view, to facilitate the improvement of the sector's effectiveness, both as partners in delivery of public services and as autonomous organizations, delivering their own services and promoting citizen engagement. As the boundaries between public, voluntary and private sectors become more blurred, overlapping in many respects, it is also essential that there be a public window on the sector that promotes greater knowledge and transparency – as indeed there should be on governments and the private sector. Such support requires more than the auditing expertise of Revenue Canada. But, neither are we suggesting a return simply to the old grants making programs of the Department of Secretary of State, created for a different style of governance. Rather, it is time for a new kind of institution, designed with both the changing needs of government and the sector in mind.

We recommend that the federal government establish a new Voluntary Sector Commission, as described below.

FUNCTIONS OF A NEW VOLUNTARY SECTOR COMMISSION

The principal goals of the proposed Commission would be to support and enable the sector in improving its governance and accountability practices, to promote transparency, and to help ensure compliance with federal rules governing their conduct. It would supplement, rather than replace the monitoring role of Revenue Canada. With some minor changes, the Charities Division of Revenue Canada would continue in its mandate to audit registered charities for financial accountability and, when necessary, to revoke registration for non-compliance with regulations. Although Revenue Canada would retain the ultimate authority to deregister charities, the new Commission would have important roles in oversight and remedial action to encourage better governance and accountability, a central aspect of which is ensuring the sector has appropriate accountability tools.

The four primary functions of the Commission would be:

Provide support, information, and advice about best practices to voluntary organizations related to improving accountability and governance. This work would complement work currently being done by intermediary associations, foundations and other organizations. The provision of information does not mean that the Commission needs to produce all of these materials itself, in the old style of "stovepipe" government. Instead, the Commission must work in partnership with voluntary organizations, serving as a clearinghouse to share materials, training packages, and best practices produced by many different organizations, or by universities and colleges and by government departments. Where information materials do not exist, it could fund a voluntary or other organization to produce them. For example, if a small youth organization in Nelson, BC wanted to implement a screening program for its volunteers, but did not know how to do so, or who could help them, the Commission could provide assistance. It might direct that organization to Volunteer Canada which has already developed an excellent video and other training materials.

The insights that we gained through our discussions with the sector across the country over the past year have confirmed that there are a multitude of outstanding examples of innovation and best practices related to governance and accountability being undertaken. These would be wonderful resources and tools for other organizations, but they are not being widely shared across the sector due to the absence of a practical means of doing so.

Collect and provide information to the public. In spite of its importance to our society and economy, the voluntary sector remains "the 'lost continent' on the social landscape of modern society, invisible to most policy makers, business leaders, and the press, and even to many people within the sector itself."[54] Public opinion polls show that Canadians have a generally favourable impression of the sector, but that they also

have little knowledge of its scope, activities or accomplishments. As part of the self-accreditation process that we described earlier, members of the public also need to have ready access to consistently reported information about specific organizations in order to make comparisons and personal decisions about their own giving and volunteering. And, as we argued in the section on capacity building, visibility is closely linked to public understanding and ultimately serves not only to enhance accountability, but public confidence as well.

Revenue Canada is ill-equipped to perform the function of disseminator of information to the public because, as a tax department, it appropriately operates under strict requirements of confidentiality. Although a member of the public can access some sections of the T3010 form filed by a registered charity (except for three confidential annexes and financial statements unless the latter is authorized for release by the charity filing the return), that specific charity's return must be requested from Revenue Canada by phone. It is not possible to search an accessible and user friendly data base for organizations in one's own community or for organizations serving a particular cause.

The Commission would require certain information, as described in chapter 3 (Governance and Stewardship), to be filed by all registered charities/public benefit organizations which would be publicly accessible. As we noted, most of this information would also be required by Revenue Canada, as it is at present. The data bases of the Commission and those of Revenue Canada could simply be integrated, rather than require double reporting. Anyone could search the Commission's website (which could be hot-linked to the sites of individual organizations), or obtain the information in more traditional forms.[55]

In addition to easy public access about specific organizations, the Commission could increase information about the sector as a whole in two ways. First, it might undertake some public educational activities in conjunction with the sector, such as education aimed at informed giving. Second, the Commission might work with Statistics Canada to ensure that adequate data are collected about the sector as a whole, and that they are available to those in the sector, and to those seeking information about it.

Evaluate and make recommendations on registration for new applicants. The strength of Revenue Canada is its expertise in auditing, not in determining charitable purposes in the first place. Its auditors are often minimally trained in this and most stay for relatively short periods in the Charities Division before they move up the career ladder elsewhere in the Department. Thus we propose that the Commission evaluate and make recommendations to Revenue Canada regarding registration of new applicants. The advantage of evaluation and recommendation for registration by the Commission rather than Revenue Canada is twofold. First, greater expertise could be applied to the determination of charitable purposes. Admittedly the discretion involved in these decisions would be reduced if the categories of public benefit organizations permissible for registration were laid out in legislation. Second, applications for registration and the reasons for the Commission's recommendation of either

We are also seriously concerned that the body charged with decisions about "the public good" is Revenue Canada. There is something fundamentally contradictory in the fact that an organization which has as its primary function the raising of government revenue also has control over determining which groups are acknowledged to have a contribution to make to a democratic society.

Canadian Unitarian Council/Conseil Unitarien du Canada

acceptance or denial could be routinely made public. Should an organization wish to challenge Revenue Canada's decision, it could appeal the decision to the courts, preferably the Tax Court as we noted in the previous section.

Assist organizations to maintain compliance with Revenue Canada and other regulatory requirements, and investigate public complaints. The Commission would work alongside Revenue Canada to ensure organizations comply with reporting requirements and other regulations.

Our evidence indicates that in most instances in which the T3010 form is not filed or completed properly, it is not due to intentional wrongdoing. Rather, the reason generally lies in the fact that the volunteer treasurer did not have time or did not fully understand what was required. In other words, a lack of capacity in very small organizations accounts for most of the problems, not willful attempts to mislead or subvert the regulations.

The Commission would conduct an initial review of the information required to be reported by registered organizations to ensure that it is complete and, to the extent possible, accurate. Organizations would be encouraged to contact the Commission during preparation of the reports, if they have questions or concerns about how to complete the forms. If information is missing or reported inappropriately, the Commission would work in remedial ways with organizations to ensure compliance. If after the Commission's intervention, noncompliance continues, intermediate sanctions such as publicity might be applied. If noncompliance persists, the Commission would refer the case to Revenue Canada for full investigation and implementation of the ultimate sanction of deregistration if necessary.

While the intent is for the Commission to be the "coach", the friendly advisor for organizations in the voluntary sector, with regard to tax matters, the Commission will be only the first stop. It will be the only stop for the large majority of organizations who require only guidance to meet the requirements established under the *Income Tax Act*. But, persistent and wilful noncompliance with the *Income Tax Act* would be referred to Revenue Canada for follow-up. Revenue Canada would hold the authority to make any final decisions with regard to the ultimate sanction of deregistration.

The Commission could also investigate public complaints. Again, its first – and perhaps only – role would be to solve any problems in a constructive manner. Only if an organization were unwilling to remedy any problems would further actions be taken. And, of course, if complaints point to fraud or other illegal activities, these matters would be directed to police forces, as they are at present.

These functions are far reaching, but all are aimed at enabling the sector to do what it already does well even better. However, we do not want to the role of the Commission to be misunderstood. For example, it should not be seen as *the* advocate for the sector. Nor would it have the major responsibility for education or capacity building in the

sector. These important tasks would remain the fundamental responsibility of voluntary sector organizations. The mandate of the Commission would be to enable and work with them. Our proposal also should not be interpreted to imply that other governments or other government departments at the federal level would no longer have a relationship with the sector. In our view, their ongoing relationships would remain and become more effective if the voluntary organizations they deal with are strong and ably governed.

TO WHOM WOULD THE COMMISSION'S MANDATE APPLY?

The work of the proposed Commission would focus primarily on registered charities (and public benefit organizations should our recommendation in the last section succeed). Only registered organizations would be required to provide information. Although we include hospitals and universities within its mandate, in practice very little of the Commission's attention would be directed to them. Both hospitals and universities are accredited and highly regulated by provincial governments; thus the Commission's interest would usually relate to only their fundraising practices. If a complaint were received about treatment at a hospital or university, it would simply be forwarded to the appropriate provincial authority. Nevertheless, we include them in the Commission's purview because they are registered charities and are responsible for huge proportions of charitable fundraising revenues.

Although centred on the charitable sector, the Commission would also co-operate with nonprofit organizations which may wish to obtain information or voluntarily file information with the Commission. For this reason, we have chosen the label of "Voluntary Sector" for the Commission's name rather than the more restrictive "Charity." As discussed below, we have used the term "Commission," to signal that the agency would be situated between government and the sector.

A PREFERRED MODEL

In the Discussion Paper, we outlined four potential models for a new voluntary sector agency:

1. an expanded role for Revenue Canada;
2. a federal commission modelled after the Charity Commission of England and Wales, but respecting the jurisdictional realities of Canadian federalism;
3. a federal-provincial agency that would be more encompassing in its mandate because some authority over organizational law would be delegated up from the provinces to the new body;

4. a non-governmental body that would operate wholly within the sector, rather than being attached to governments at all.

The consultation produced no consensus of opinion as to a preferred model and, in fact, opinion was quite divided with the exception that almost no one favoured an expanded role for Revenue Canada. The lack of consensus is not surprising given that participants had relatively little time to digest and comment on such a complex question. Nor did we provide enough guidance in the Discussion Paper about the specifics of function and design.

In spite of considerable support heard during our consultations for a non-governmental agency, we have significant reservations about this approach. We think the potential of a non-government agency to increase the visibility of the sector would be less than in the model we propose; its funding would probably be unstable; and, if it had the power to determine registration, it would risk conflict with other organizations in the sector. The fact that no existing intermediary organization stepped up to volunteer for the role is a telling indicator of the potential limitations of the model, given the many functions it would have to carry out.

After further research and consideration, we recommend an institution that might be seen as a blend of our original models 2 (a federal commission) and 4 (the non-governmental model), with elements taken from each. We have concluded that the new agency should be attached to the federal government for two main reasons:

- the Commission would have an important role in recommending registration for new applicants. This is a recommendation involving public dollars under the federal income tax system. It is extremely unlikely that the federal government would, or should, delegate such responsibility under the *Income Tax Act* to a third party. The continuing attachment to the federal income tax system is also one reason that the Commission is appropriately a federal responsibility.
- there is a compelling rationale for having one national agency that is a central repository of information about voluntary organizations and that ensures sound accountability, as well as national registration, rather than separate provincial and territorial agencies or processes. Moreover, few voluntary organizations today operate in geographical isolation, even if they operate primarily at the local level. Many belong to national umbrella organizations; with the popularity of the Internet, a local organization could fundraise nationally, or even internationally. Thus it is simply not efficient or effective to have the proposed functions of the Commission duplicated in each province and territory.

Additionally, the federal government has an interest in promoting citizenship and its requisite skills and in strengthening civil society. There is no better way to do this than supporting people who are taking the responsibility of leadership and participation in self-governing voluntary organizations. By facilitating the development of the capacity

of voluntary organizations which are indispensable in the delivery of public services, the federal government is enhancing its own capacity to fulfil its core business.

PRINCIPLES

Although we believe that there is strong need for the new kind of agency we are proposing, we recognize that there is little appetite among governments or the public for the creation of large and expensive new machinery. The agency we are proposing, however, would be neither. Several basic principles guided our thinking about specific features of the new agency. It should:

- have expertise from the sector in its leadership and staff;
- enhance the functions of intermediary and other voluntary organizations;
- avoid being either large or bureaucratic in nature;
- work through partnerships with the sector and others;
- be accessible to the sector and the public;
- have secure and stable funding;
- be insulated from political interference; and
- be sufficiently flexible to evolve over time.

SPECIFIC FEATURES

In detailing the specific institutional features of a Voluntary Sector Commission, there is no one model from another country that we could simply import to Canadian circumstances. Building on the above principles, we have attempted to flesh out what the proposed Voluntary Sector Commission might look like and how it would operate. The Commission would function in the following manner:

- It would have a degree of independence from both government and the sector. To establish this arm's-length relationship, the agency would be headed by independent commissioners, perhaps numbering between five and seven, named by the federal government. The basis of the appointment should be expertise and merit. A significant portion of the commissioners (at least a third) should have had extensive experience working or volunteering in the sector. A degree of independence from both the federal government and the sector is important if the Commission is to be a neutral arbiter of public complaints and provide effective oversight and remedial action.
- It would report to Parliament through a minister, who among other responsibilities, would be known as the Minister for the Voluntary Sector.
- It would table an annual report with Parliament on its activities and outcomes.
- It would be funded by the federal government.

- It should establish an effective working relationship with the sector. One way to achieve this is for the Commission to hire a number of its key employees who have experience in the sector. A second way, as noted above, is to work collaboratively and in true partnerships with the sector. Third, a reference group from the sector should be established to provide advice and serve as a sounding board.
- It should work closely and share information with Revenue Canada. Dialogue would be particularly important in determining registration as the Commission would have only the authority to recommend rather than decide registration; in publishing interpretation and information bulletins about regulations; and in encouraging compliance by voluntary organizations with federal laws and regulations. In the latter, the Commission would need to work cooperatively with the Charities Division to help organizations meet the informational requirements and other regulations and to determine when to hand over cases to Revenue Canada when compliance has not been forthcoming.
- It must work in an accessible and decentralized way. People who live outside of Ottawa have to be able to access the agency easily. This could be done through several means including a sophisticated, but user-friendly website, partnerships with intermediary and other voluntary organizations, regional offices (co-located with existing federal offices or voluntary organizations) and by creating regional advisory groups.
- It should have a small staff. Although it is difficult to estimate numbers at this point, a staff of less than 100, about the current size of the Charities Division of Revenue Canada, would probably be appropriate.

The Charity Commission of England and Wales seems to represent an excellent model. In comparison with Revenue Canada, it should be endowed with a greater flexibility, a capacity to adapt to the conditions of different regions and provinces; a greater potential to change with the organizations, and compatibly with their needs and the present situation.

Centraide/United Way Mauricie, Trois-Rivières

In some respects, the model we have proposed bears a resemblance to the Charity Commission of England and Wales. It would share with the Charity Commission several strengths: independence but connectedness to both government and the sector; an active advisory role in promoting better administration of charities; oversight and hands-on remedial work in helping to overcome problems; knowledge of the sector leading to respected decisions on registration; and public accessibility, including through an excellent website.[56] But there are some important differences. In Canada, jurisdiction over charitable organizations is shared, with federal jurisdiction limited primarily to matters related to the *Income Tax Act*; this alone would cause a federal commission to be more restricted in its role than is the case for the Charity Commission in the UK.

For this reason, discussions between the federal and provincial governments as to what roles can be combined and which must remain separate should precede implementation of a new Commission.

CONCLUSION

We strongly believe in the need for this new agency. The voluntary sector has survived not only some tough times in recent years, but also a fundamental transformation in its relationship with governments and the public. Governments have placed enormous responsibility on the sector. They want it to deliver services once delivered by the state; to be the agents for strengthening civil society and democracy; and to serve as the "glue" that binds an increasingly diverse population together. At the same time, there are increased demands on voluntary organizations for accountability and transparency which have been our main preoccupation.

If the sector is to go beyond survival, to realize its full potential in this new environment, it will need support in constantly fine tuning its governance. If it is to achieve a "new balance" with governments and the Canadian public – a balance that serves well the sector, the communities in which it works, and Canadian democracy in general – it requires from Canadians and their federal government the institutional support that this new commission could provide. The Commission would work with the sector to help itself, its stakeholders and Canadian society work more efficiently, effectively, and constructively.

8. REGULATION OF FINANCIAL ACCOUNTABILITY

Financial management and accountability are central responsibilities of boards of directors of individual organizations. Boards must ensure that they exercise oversight of the organization's resources and operations and have adequate control and audit systems in place. However, the manner in which financial resources are allocated and how they are accounted for is greatly influenced by considerations based on tax rules. In the last section, we presented a proposal for a new Voluntary Sector Commission. Its mandate would focus on supporting the sector in developing its capacity for governance and accountability, providing information to the public and advice to the sector, and helping organizations to take remedial action to improve their accountability practices in order to comply with regulations. Although this facilitating role is critical and currently absent, there remains an important role for external monitoring, auditing and sanctioning if necessary, which would continue to be performed by the Charities Division of Revenue Canada. In this section, we examine some of the important issues for accountability related to the supervision of financial management for registered charitable organizations.

Our purpose is not to argue for more detailed and onerous regulation of voluntary organizations. Indeed, the voluntary sector already faces more regulation and greater reporting than the private sector, even in cases where private firms receive significant financial benefits in the form of grants, subsidies and loan guarantees from governments. Regulations and reporting requirements concerning financial accountability are already in place. In addition to the regulations enforced by Revenue Canada, funders impose their own sets of rules for conduct and accountability. And, with the Canadian Centre for Philanthropy's Ethical Fundraising and Financial Accountability Code, the sector has taken significant initiatives in self-regulation.

The central issue is whether existing regulations can be made to work more effectively. Regulations should meet five basic criteria. They should be fair (applied equally to similar organizations); efficient (achieve the intended results without unnecessary expense or administrative time); realistic (be able to be met with existing resources within the sector); avoid unintended consequences, such as distorting the mandate of an organization; and enable the sector to continue to meet its responsibilities and accountability to civil society and democracy. As we will see, the existing regulations do not always meet these criteria.

CURRENT REGULATION BY REVENUE CANADA

The main rationale for involvement of the federal government in the regulation of voluntary organizations has been to protect the integrity of the tax system, not to benefit charities. Its active supervision began in 1967 with the creation of a separate Charities Division that assumed oversight of a new regime of registration and reporting of charities. Thirty years later, the Charities Division has a staff of 75 in the National Capital Region and another 15 auditors in the field.

Revenue Canada, Charities Division, supervises two categories of organizations: nonprofits and registered charities. Since nonprofits cannot issue tax credit receipts and are often mutual benefit rather than public benefit organizations, both the rules imposed on them and the reporting requirements are minimal. For registered charities, the regulations governing their activities, use of resources and reporting requirements are much more onerous. The obligations placed on registered charities are that they must:

- Meet the Disbursement Quota: One aim of the federal regulatory regime is to ensure that charities largely spend their resources on charitable purposes, rather than accumulating money or spending on administrative, fundraising and other non-charitable matters. The means for enforcing this is the disbursement quota. Currently a charity must spend at least 80 percent of the previous year's receipted donations (excluding government grants or investment income) on charitable activities. This limits not only expenditures on fundraising and other revenue generating activities, but also on overhead, administration and policy-related work. The solution for many charities is to ensure that they obtain adequate income from sources other than receipted donations that can help offset costs over the 20 percent.
- Refrain from Engaging in Unrelated Business: Charities may engage in business if it is directly related to and advances the goals of charity. However, the *Income Tax Act* is purposively silent on the definition of what constitutes a related business. Charities may also undertake unrelated business if substantially all of the employees are unpaid (this allows hospital auxiliaries to run gift shops and Girl Guides to sell cookies, for example). The Act also permits a charity to accumulate and invest its income, as long as this is focussed on the needs and purposes of the charity. The case law is somewhat uneven — indeed, some would say confusing — in helping to define what kinds of business activities are permissible, and under what circumstances.
- Limit Political Activities: The provisions of the *Income Tax Act* have been interpreted to permit a registered charity to carry on limited political activities as long as they meet three tests. They must: 1) help the charity achieve its charitable goals; 2) not be partisan; and 3) meet the "ten percent rule."[57] The law is unequivocal about partisan activity: no partisan activities or donations for partisan purposes are allowed. At the other end of the spectrum, discussions with governments about policy matters related to the charity's purpose (where there are "full and reasoned" discussions about an issue, rather than an attempt to "influence public opinion" or change policy) are not restricted. Other types of advocacy activity are allowed so long as they are in aid of the charitable purpose. Activity in this category might include holding a workshop that is critical of government policy; organizing a lawful demonstration; or placing newspaper and television advertisements to gain public support for the organization's position on a public policy issue. A charity can spend no more than 10 percent of *all its resources* — human, material and financial (based on all revenues not just receipted donations) on political activities. The effects of the disbursement

quota reinforce this limitation and charities cannot use the amounts that they devote to political activities to help them meet their disbursement quota.

It is up to the discretion of Revenue Canada to determine which political activities are considered acceptable and whether permissible levels of activity have been exceeded. A 1998 decision by the Federal Court of Appeal in the Human Life International case has further restricted the definition of permissible advocacy activity, however, by stating that "activities designed essentially to sway public opinion on a controversial social issue are not charitable but are political."[58] This interpretation gives even greater discretion to Revenue Canada because it will define what is a controversial social issue and potentially further control advocacy activities.

- File Annual Reports: Registered charities must file form T3010 that requires detailed information on their revenues and expenditures, assets and liabilities, remuneration paid to senior staff, and more general information about their charitable purposes and activities. All of this information is available to the public. They must also file schedules indicating accumulation of property, the nature of operations, actual calculations of the disbursement quota, as well as submitting annual financial statements. The charity indicates on its return whether or not it wishes to have its financial statements made public on request. All of the information contained in the other annexes is confidential. In addition, the Act requires charities to maintain proper records and retain duplicates of receipts issued.

  The T3010 form has some serious limitations. First, the activities of charities tend to be described in very general terms and there is limited information on beneficiaries. Second, Revenue Canada does not generally verify the accuracy of the information. In 1990, the Auditor General noted that information was missing for one or more years between 1982 and 1987 in 17 percent of cases. Third, the forms are designed to collect financial information for tax purposes, rather than to give the public an opportunity to understand what voluntary organizations do and how they do it.

Due to limited resources, most audits done by the Charities Division are triggered by complaints.

Most violations are first dealt with by an information letter indicating what practices need to be improved and how this might be done. If compliance is not forthcoming, however, the only real sanction available to Revenue Canada is to revoke a charity's registered status. In this case, the charity must wind up its operations within a year. This is an extreme measure that, not surprisingly, is seldom used. From 1991 to 1996, only 33 organizations had their status revoked.

CURRENT PROBLEMS

A number of problems are presented by the current supervisory regime of Revenue Canada.

- As with any supervisory system, there is a need for regulation to be effective without being excessive: to adopt sufficiently rigorous standards to shape behaviour without overburdening small organizations. In other words, the levels of accountability need to avoid the use of a sledgehammer to crack a walnut.[59] At present, the problem is that Revenue Canada requires exactly the same amount and type of information from a small voluntary organization with no staff, as from an organization with a multimillion dollar budget and a multitude of staff.
- Voluntary organizations are becoming more deeply involved in business activities, both in response to demands from constituencies and an increasingly competitive fundraising environment.[60] Governments and other funders are also actively encouraging business activities in their efforts to stimulate community-based entrepreneurship. The result is that, by choice or necessity, many voluntary organizations now carry on some kind of business activity at some point. On the other hand, some tax-paying private businesses are concerned about what they perceive as unfair competition from the commercial activities of tax-exempt organizations.

  In contemplating whether it is appropriate to get involved in a business venture, charities receive little guidance from existing regulations as to what is considered related and what is unrelated business. Not only are the rules of the *Income Tax Act* unhelpful in differentiating related and unrelated business activity, but they are seemingly inconsistent with the case law. The confusion was made more uncertain by a 1987 Federal Court decision which appeared to adopt the "destination" test to identify related business (business activity is permitted as long as substantially all of the proceeds go to a charity's principal objectives).[61] Revenue Canada, however, does not regard the destination test as appropriate. A second problem is that under current Canadian rules, a registered charity risks losing its registration for engaging in any unrelated business using paid employees. In contrast, both the USA and the UK, address this situation by simply taxing the income from unrelated business. Many charities manage the current regulation by setting up other legal entities that will carry on business on their behalf. The Charities Division of Revenue Canada has undertaken a review and produced a draft brochure outlining clearer – and in our view very reasonable – guidelines on what constitutes related business.
- Policy dialogue and advocacy are often important aspects of charitable work and contribute to a healthy democracy with active citizens who understand and are willing to debate values and fundamental policy issues. Given that public policy advocacy is closely linked to the core mission of many voluntary organizations, it may seem strange to address issues of advocacy in the context of the regulation

The concept of tax-free commercial activities that are directly related to and advance the goals of charity must be retained. The concept of codifying activities as "commercial" based on whether they compete with the private sector is unacceptable, and taken to its conceptual extreme threatens the very existence of many charities.

Canadian Red Cross Society

Advocacy rules should be clarified. The role of education or advocating a cause is both a necessary activity and a responsibility of a charity in support of its work in service of others.

National Voluntary Organizations

It's a rare business that makes 80% profit. In this day and age when non-profits have to be business-like to fulfil their purpose, it's counter-productive to hold them to a standard that goes back to noblesse oblige good works.

National Society for Fund Raising Executives Greater Toronto Chapter

of financial management. Advocacy is regulated, however, by limiting the amount of an organization's resources that can be spent on it. Indeed, under the rules which Revenue Canada must administer, the capacity of charities to engage in non-partisan political activity is quite limited and has become even more restricted by the recent decision of the Federal Court of Appeal in the Human Life International case. In our view, the ten percent rule is badly formulated, poorly understood and potentially highly arbitrary in its application by Revenue Canada. An inappropriate political burden is placed on tax officials.

- The arbitrary nature of the disbursement quota presents a number of problems. The *Income Tax Act* has recently changed to provide greater flexibility in the quota, allowing disbursement excesses to be carried forward for up to five years, but the main difficulties remain. It creates the expectation that a charity which has spent more than 20 percent of its receipted revenues on fundraising, for example, may have been extravagant or badly administered. However, in some years, fundraising and associated administrative costs may be much higher if an organization is trying to establish as new donor base or initiate a major new campaign. More complex client and organizational needs have created a growing requirement for professionalization, including more and higher paid staff, which may increase costs before revenues catch up. The quota may also lead to some dubious accounting procedures and often somewhat absurd behaviour in order to ensure compliance. For example, some charities have found themselves counting and costing the number of words in a fundraising brochure to distinguish those related to public education and/or charitable purpose and those that ask for money. The desire to comply has also created considerable inconsistencies in how administration, overhead and fundraising costs are calculated and reported.
- Finally, the heavy handed nature of the only sanction – deregistration – is of concern. It affords no latitude to sanction minor noncompliance.

PROPOSALS FOR BETTER REGULATION

In addressing these issues of external supervision over financial management, we propose that:

- *different reporting requirements be implemented for large and small organizations with one regime for charities with an annual operating budget of less than $200,000 and stricter requirements for charities with annual budgets greater than $200,000. The T3010 form (or its replacement) should be revised, creating a short and long version of the form. We urge Revenue Canada to consult with the sector in making these revisions.*
- *Revenue Canada continue with its initiative to provide clearer guidelines on related and unrelated business and consult with the sector on these.*[62] *In our view, a business should be considered related and permissible if it:*

- *promotes, extends, supplements or is an offshoot of the organization's charitable goals, or;*
- *uses specialized expertise developed in the course of the charitable work, or;*
- *maximizes the use of assets and personnel necessary to the usual operation of the charity, or;*
- *uses goods or services which have all been donated, or;*
- *involves substantial voluntary labour in the production or distribution of the goods and services, and;*
- *does not place the assets or finances of the organization at undue risk or displace the charitable mission as the dominant activity, and;*
- *does not distribute the income earned for private gain (naturally, salaries and operating expenses can be paid).*

- *The Income Tax Act and other legislation should be amended to permit registered voluntary organizations to undertake business activities that are neither related to their mission nor conducted primarily with voluntary labour, but require them to pay income tax on the profits from unrelated business. If an unrelated business is divested into a separate, taxable entity, this entity should be able to deduct from its income, subject to the usual limits, its donations to its owning charity.*
- *reaffirm and maintain the legitimacy of space for non-partisan political advocacy. While partisan activities should continue to be forbidden, the right of bearing a public witness on an issue affecting the very purpose of a charitable organization should be affirmed. The rules governing advocacy activity need to be clarified in ways that can be better understood, that militate against arbitrary application and that cohere with the values of a healthy civil society. In particular, the 90/10 rule has to be regarded as only an approximate standard since allocations under it are extremely difficult for a registered organization to calculate or Revenue Canada to measure. The important tests are that the rule not be applied in an arbitrary or unduly restrictive manner.*
- *review the appropriateness of the disbursement quota with a view to ensuring flexibility. Although we have identified the disbursement quota as a problem, we did not have adequate resources or expertise to adequately address how to fix it. We recommend that Revenue Canada, in consultation with the voluntary sector, review the appropriate levels and calculation of the disbursement quota and alternatives to it, including replacing the quota with a standard of accumulation (the amount of money that a registered organization can accumulate over a fixed period of time).*

- *Revenue Canada and the new Voluntary Sector Commission continue to work with the Canadian Institute of Chartered Accountants and the sector to develop greater consistency in accounting practices, including the definition of fundraising and general administrative costs.*
- *implement intermediate sanctions for non-compliance on a sliding scale. These could range from information letters, publicity, and fines before threatening or imposing deregistration.*

As noted in the introduction, the need is for better, not merely more regulation. Improved regulations should help remove some of the inconsistencies and arbitrariness of the current system. However, they are no substitute for sound governance and financial management by an organization's board and staff.

The laws that deal with incorporation and registration of voluntary organizations, and the resulting obligations imposed on them, are entirely separate from those that determine how organizations are classified and supervised for tax purposes. Organizational law governs the legal form and personality of an organization. Its goal is to make available general forms of association that allow organizations to function effectively and efficiently; to provide protections for the public and for voluntary organizations from fraud; and to enable activity by a diversity of organizations. For the most part, this is provincial jurisdiction. In this section we examine two issues of organizational law: the legal forms available to voluntary organizations and directors' liability.

ORGANIZATIONAL LAW

Most observers agree that Canadian law in this area is seriously flawed and outdated. Reform of organizational law has been on the agenda for years in Canada. Over the past 25 years, four separate bills have been introduced in Parliament aimed at creating a nonprofit incorporation Act, and all have died on the order paper. Extensive reviews have been undertaken in many provinces, including a massive review by the Ontario Law Reform Commission in 1997.[63] But, with the exception of Quebec, British Columbia and Saskatchewan, little reform has actually been implemented.

In general, provincial law, and where applicable federal law, recognize three forms that voluntary organizations might take.[64]

- The unincorporated association. The members are governed by a contractual arrangement setting out the purpose of the organization and its operations, but the organization has no separate legal status. This means that it cannot enter into contracts or own property. The greatest advantage of the unincorporated association is that it is easy and inexpensive to set up. It thus appeals mainly to small, strictly voluntary groups which may be of short duration. The biggest drawback is that its members are not entitled to limited legal liability, making them personally liable for the actions and financial failures of the organization.
- The charitable trust. Although the charitable trust is the oldest form dealing with charitable endeavour, it is seldom used today due to lack of familiarity with the form and uncertainty about the rules associated with it. The main disadvantages are that much of the law governing trusts is complex, being derived from centuries old common law, its directors (called trustees) are held to a higher standard of fiduciary responsibility than are directors of corporations, and the form is not well suited to many modern transactions.
- The nonprofit corporation. The third option is to incorporate under a provincial Societies Act or Companies Act, or under the *Canada Corporations Act* if the organization is national in scope and operates in several provinces. Although the corporation entails higher costs of entry and maintenance, it has the advantage of providing a legal personality, operational versatility and limited liability protection.

Some current legislation is so out-of-date, it is useless. As well, consistency across provinces will be in the public's interest as well as aiding national organizations. The laws governing incorporation at the federal level and the Ontario provincial level are archaic, difficult to understand and are not reflective of developments in corporate law in general and to the current law applicable to nonprofit corporations specifically.

Canadian Cancer Society and the National Cancer Institute of Canada

The Section strongly supports the recommendation to reform organizational laws for charitable and non-profit organizations. The Section would encourage the federal and provincial governments to proceed expeditiously in this area.

Canadian Bar Association - Ontario

It would be our opinion that a uniform piece of legislation should be created in Canada which would be applicable to all charities and non-profit organizations. At the current time there are significant legislative conflicts between federal and provincial agencies who have statutory authority or mandates relevant to the operation and activities of charitable organizations and non-profit associations.

The War Amps

In order to accommodate the diversity of the sector, each of these forms should continue to be available to voluntary organizations, but each is in need of some reform.

There are a number of problems with the existing laws in Canada that set out available organizational forms. First, most of this legislation is old, predating the formation of the modern corporation and the laws governing it. The legislation has not kept up with the contemporary needs and realities of voluntary organizations, such as entering into service contracts or conducting business activity. Under most provincial Societies Acts (where they exist at all), for example, no business activity is permitted. Although a clever lawyer can relatively easily set up a legal, if somewhat complex, arrangement that facilitates business activity, the clarity should be in the law rather than the astuteness of one's legal counsel. Second, much of the law governing trusts is complex due to its heavy reliance on common law decisions and may require needlessly expensive litigation to resolve relatively simple matters. The courts make decisions on an *ad hoc* basis and often in a less than satisfactory manner. Third, there is a patchwork of legislation across the provincial and federal governments, creating much greater differences than are desirable or efficient. This patchwork produces some serious barriers to ease of access to information. As Ronald Hirshhorn and David Stevens note, "the legal issues associated with nonprofit organizational law, although challenging and complex, do not vary greatly across Canadian jurisdictions."[65] Fourth, the laws governing incorporation in most provinces and at the federal level have not been modernized and remain either as unrepealed sections of old corporation acts or as parts of statutes governing for-profit corporations. Because the historical focus of these statutes has been on business operations, many contain provisions that are clearly inappropriate or irrelevant for nonprofit corporations.

REFORMING LEGAL FRAMEWORKS

The unequivocal message from our consultations with the sector was its strong support for cleaning up this legal mess. In order to make the three forms of legal association more suitable for the contemporary work of voluntary organizations and to provide greater clarity and consistency of the law, *we recommend that:*

- *the federal government expedite the work begun by Industry Canada to develop and pass through Parliament a new nonprofit corporation bill. The goal of such a bill would be to modernize the law and give the nonprofit corporation the powers of a natural person, balanced by restrictions that do not allow the stated objectives of the organization to be too readily changed. It should be designed to serve and accommodate the diversity of the sector by including appropriate classifications that address charitable, religious, and mutual benefit organizations, among others, and by making appropriate exemptions and accommodations for certain classifications.*
- *the provinces collaborate to develop organizational laws consistent with each other and the federal level, although room for accommodation by individual provinces for needs specific to the province should be*

permitted. More consistent law would provide greater guidance to founders of nonprofit organizations on matters of internal governance, rights of members, range of permissible governing structures, general requirements for meetings and avenues of redress.

- *the provinces enact modern legislation governing trusts and unincorporated associations. In the latter case, the provisions of Quebec's civil code and the United States' 1992 Unincorporated Association Act could serve as useful models.*[66]
- *harmonize the disclosure of information required under organizational law across jurisdictions and with the information to be required by Revenue Canada and the Voluntary Sector Commission.* As part of establishing the legal form, minimum information must be provided to the provinces, including constituting documents and other basic information, as is already required in most provinces. This information should be available to the public in the same way as it is with business corporations. As discussed in the section on governance, additional information would be reported to the Voluntary Sector Commission. The goal should be to avoid duplication of reporting requirements or processes, however. Thus the information reported to the provinces or to the federal government as part of the process of establishing an organization in law should be able to be reported in the same format to the Voluntary Sector Commission in order to eliminate double reporting.

DIRECTORS' LIABILITY

The liability of board members is one of the most quoted and perhaps least understood issues in organizational law. But, concerns of being held personally liable for the actions or neglect of one's board (or of previous boards) are growing and, throughout our consultations, we heard that such concerns are increasingly hampering the recruitment of board members. The directors hold a fiduciary responsibility for the management of the organization's funds, wrongful termination of employees, breach of contract and the failure of the organization, among other things. The major issue is board members' responsibility for the solvency of the organization; if it goes under, they may find themselves personally liable for paying unpaid taxes, wages and pension contributions. There is also uncertainty about the personal liability of current directors for claims about the sexual misconduct of employees – present or long past. British Columbia recently changed its law so that there is no longer a time limit on the submission of claims for sexual misconduct and the BC Court of Appeal recently extended vicarious liability to cover the actions of independent contractors (which Laird Hunter suggests may logically be extended to volunteers in the future).[67]

If this is not enacted in Canada, some organizations will cease to exist simply due to the lack of volunteer board members willing to serve.

Canadian Society of Association Executives

The duties of an organization's board include a duty of care and a duty of loyalty. A duty of care requires that the directors act with a specified level of competence and attention in the pursuit of the objectives of the organization. The duty of loyalty requires directors to act honestly, avoid personal conflicts of interest, and put the interests of the organization first. In order to avoid the risks of liability, a director must demonstrate that

he or she has acted with due diligence in discharging these duties. Problems arise because the standards vary in different provinces, depending on whether common or statutory law provisions apply, and are different in application to charitable corporations and trusts, and quite unclear for unincorporated associations.[68] Under different statutes: higher standards have been applied to the application of care for the fiduciaries of trusts than for those of nonprofit or for-profit corporations. The duty of care may also vary according to the specific skills of the director: for example, a lawyer or accountant might be held to a higher standard of care than someone without specialized knowledge. ***We agree with the recommendations recently made by Hirshhorn and Stevens that the general standards of the duty of care and loyalty should be codified and applied more consistently to all nonprofits (regardless of their legal form).***[69] Under the duty of care, directors should be expected to exercise the care, diligence and skill of a reasonably prudent person, in view of their position and background. They should also be able to delegate some decision making and seek the advice of qualified experts. The duty of loyalty could be specified as in modern corporate statutes which require the fiduciary to act honestly and in good faith in the best interests of the organization.

Directors' and Officers' insurance is not the answer. It is far too expensive. This issue needs to be taken forward and dealt with soon.

Participant in the Halifax Consultation

Many voluntary organization attempt to alleviate concerns about personal liability of board members by purchasing insurance. But, increased reliance on costly and limited insurance is not the answer.

Several recent reviews of the organizational law – including the TSE's review of for-profit corporations, the Commission on the Future of the Voluntary Sector in the UK and the Ontario Law Reform Commission's review of supervisory laws – all arrived at a similar conclusion: that government should review and limit the personal liability imposed on directors. In all cases, the underlying argument is that liability is seriously inhibiting the willingness of capable individuals to serve as directors. As the TSE report notes:

> We accept that personal liability of directors is effective in influencing corporate conduct and that directors not satisfying the relevant standard of conduct should incur liability. However, because our proposals depend upon the availability of capable individuals of integrity to serve as directors, the extent of individual director liability should be reasonable and should not discourage qualified individuals from serving as directors. We have invited federal and provincial governments to review legislation imposing personal liability upon directors, both as to the effectiveness of the legislation in influencing corporate conduct and as to the fairness of the application to individual directors. We have recommended that in all circumstances directors must be provided with an effective due diligence defence.[70]

Board members should be fully responsible in cases of fraud, gross negligence, conflict of interest, or criminality on their part; in such cases, no limitations of liability should apply. Otherwise the degree of liability should be capped to a reasonable maximum, and a due diligence defense should be available. We urge the federal and provincial governments to work with insurers and the sector to determine the appropriate level of this cap.

10. CONCLUSION: BUILDING ON STRENGTH

Our examination of accountability and governance in the voluntary sector began with the recognition that extensive accountability to multiple audiences by multiple means already exists in the sector. Our goal was not to develop accountability practices where few existed. Rather, it is to better equip voluntary organizations and the sector as a whole to meet the new realities of a vastly changed environment by enhancing their governance and accountability even further. In this sense, our report is about making a good thing better.

AN ACCOUNTABILITY TOOLBOX

Accountability is not a single tool. Rather, it involves many different tools or approaches being used together by various players on different things. The overall approach to accountability we have recommended relies on four primary tools that represent different, but shared responsibilities working collectively.

The first is good stewardship over organizational governance. This is the primary responsibility of a voluntary organization's board, working in collaboration with its staff and volunteers. Effective stewardship cannot be legislated, but we have attempted to provide some practical guidance in the form of a good practice guide that can assist boards in reviewing and redesigning their organizations' structures and processes.

Second, our approach to effective accountability depends heavily on self-accreditation coupled with transparency. This involves two things: required reporting on how an organization conducts its affairs according to basic elements of good governance practice; and easy public access to this information. We have proposed a set of reporting requirements that consist of a basic core for small organizations and a somewhat longer list for large organizations. In comparison with current requirements, what we propose is generally no more onerous. However, it provides the kind of information that would better enable the public to understand what an organization does and how it does it. To be effective, this system requires sound leadership by boards to ensure their organizations report accurately and a curious public interested in knowing about the sector. The key, however, is a central body which provides the public with easy access to information. This is a primary function of the new Voluntary Sector Commission that we have proposed.

The third tool is self-regulation. Particularly in promoting ethical fundraising, self-regulation is the most effective means available, although we encourage its application in other areas as well. The prerequisite to effective self-regulation is a strong sector, with intermediary organizations capable of showing leadership to develop appropriate and useful codes of conduct that will be adopted by individual boards. There is no

question that such leadership exists in Canada's voluntary sector and that it is sufficiently mature and responsible to self-regulate in many areas. After all, if the sector knowingly allows bad practice to flourish in its midst, all organizations will be hurt by a decline in public confidence.

The fourth element in our accountability tool box is external regulation. This is most applicable to ensuring appropriate financial accountability by registered charities. Such regulation already exists under the *Income Tax Act*, supervised by Revenue Canada, which in the future would be aided by a new Voluntary Sector Commission. Our intent has been to make these existing regulations better serve the sector and the public, rather than to impose onerous additional rules.

In applying any of these approaches, organizations and the sector as a whole need capacity, including financial and human resources, technology, training, knowledge, and understanding among its partners and the public. Throughout the report, we have stressed that attempts at enhancing good governance and accountability will fall short of the mark without adequate capacity to support them. We have also urged the sector's partners – governments, funders and corporations – to help restore the capacity of the sector that has been undermined in recent years and to create new capacity to meet the challenges that lie ahead.

PRIORITIES FOR IMPLEMENTATION

The forty or so recommendations in this report are far reaching and are directed at multiple audiences. To implement all of them, action would be required by voluntary and intermediary organizations, foundations and other funders, corporations, and federal and provincial governments. Some of our recommendations, notably building capacity, are sustained long term projects that should begin immediately and continue as part of a new relationship among the three pillars of society. Others, with concerted effort, could be largely accomplished in a year or two. So, where to begin?

First, there are steps that the sector should take to enhance its own governance and accountability. To facilitate these steps, a guide containing "good practice" elements, as outlined earlier in this paper, should be distributed, through intermediary and other organizations, to all organizations in the voluntary sector. These organizations should then adapt and adopt the guidelines to improve their own practices.

Second, it is time for governments to move from benign neglect of the voluntary sector to active partnership and leadership. After all, governments, both federal and provincial, expect more than ever from the sector: they want to promote the sector's strategic value in democracy and citizen engagement and they need voluntary organizations as partners in conducting their own core business. *Three specific sets of action are critical:*

- *Federal and provincial governments need to start rebuilding and renewing the capacity of the sector. The creation of a new Voluntary Sector Commission by the federal government is an essential element of this process. We urge the federal government to move quickly to establish a Voluntary Sector Commission, with the goal of having it in place by the end of fiscal year 1999-2000.*
- *Canada's Parliament, not judges, should decide which organizations are "charitable." The federal government, in collaboration with the provinces and the sector, should create a Task Force representing government and the sector to begin the process of establishing a democratically-determined, legislated definition of which organizations should qualify for access to the benefits of the federal tax system.*
- *Both federal and provincial governments should also begin to renew their relationships with the sector by entering into discussions with the sector that may lead to negotiation of a compact of good practice or creation of other means for enhancing ongoing dialogue, understanding and genuine partnership.*

We described the Discussion Paper which we released in May 1998 as the beginning of a journey – a point of departure for discussion – and we invited others to join us. The participation by the voluntary sector in this process has been impressive, both by its extent and its thoughtfulness. For the Panel, our journey is now at an end. We turn to the Voluntary Sector Roundtable and the sector generally, to federal and provincial governments, and the private sector to take up where we have left off. For each, we hope this report will be their own departure for further discussion, both separately and together. The immediate next step involves discussions between members of the VSR and governments as a beginning of a longer sustained dialogue and timely action on the key recommendations of our Report. We wish them a *bon voyage*.

SUMMARY OF PROPOSALS: ADDRESSING DIFFERENT AUDIENCES

TO THE VOLUNTARY SECTOR

CAPACITY BUILDING

1. Intermediary Associations and Capacity Building

National voluntary organizations should continue working collaboratively in order to improve communication about innovations, share good practices and promote training and research across different types of organizations and between community and national organizations.

ORGANIZATIONAL GOVERNANCE AND STEWARDSHIP

2. A Good Practice Guide for Governance

Every board should explicitly assume responsibility for stewardship of the organization and, as part of this stewardship, be responsible for each of eight key tasks which are: [note exceptions for organizations not directed by boards]

2.1 Mission and Strategic Planning

- establish the mission; communicate it with members and stakeholders; and periodically review its appropriateness;
- identify the key elements to success in sustaining this mission and establish a strategic planning process as to how to get there;
- approve a process for risk assessment and management to assist the board in anticipating risk, assessing it, and managing the outcome of risky actions; and
- oversee and monitor the achievement of the mission by setting measurable goals, defined in terms of desired outcomes or impacts on clients, rather than as inputs or activities.

2.2 Transparency and Communication

- establish policies for communicating and receiving feedback from stakeholders;
- ensure, as part of a code of ethical conduct, that the complaints and grievance procedure works effectively;
- hold regular board meetings that provide an opportunity for discussion;
- provide a collective memory of the organization by ensuring that appropriate minutes and documents are kept; and
- respond appropriately to requests for information.

2.3 Structures

Ensure that the organization has at least three basic elements in its structure:

- a board capable of providing objective oversight;
- an independent nominating committee to ensure the appropriate succession of the board; and
- an audit committee, whose primary responsibility is to report whether the organization is in compliance with the laws, rules, regulations and contracts that govern it. It also reviews whether the management, information and control systems are organized and implemented to carry out these rules and regulations, and as well is responsible for supervising external financial reporting.

2.4 The Board's Understanding of Its Role

- decide upon and communicate its philosophy of governance;
- develop a code of conduct for board members to help the directors understand, and ensure they agree to the obligations which they are undertaking;
- establish and enforce a written conflict of interest policy governing board members and staff or volunteers who have independent decision making authority over the resources of the organization;
- provide job descriptions for board members that outline general duties and how the board's work will be evaluated;
- invest in board members with orientation and ongoing information sessions;
- recognize the contribution of board members and provide feedback on the board's performance; and
- use the time of the board members efficiently.

2.5 Fiscal Responsibility

- approve a budget that reflects the organization's priorities and that is based on realistic assumptions (of revenues, costs, and other factors such as inflation);
- monitor and control expenditures, based on appropriate accounting procedures;
- oversee the stewardship of the organization's assets and liabilities;
- if a registered charity, provide oversight of the issuance and record-keeping of receipts for charitable donations; and
- approve annual reports, including financial statements.

2.6 Oversight of Human Resources

- ensure the organization complies with employment legislation, workplace safety regulations and reviews its employment arrangements periodically to ensure they comply with good practice;
- ensure staff are provided with job descriptions, orientation, management, training and performance appraisals;
- recruit staff openly, fairly and systematically; and
- review periodically the staff structure and effectiveness of the working relationship between the board and staff.

And

- have in place a clear set of policies addressing the recruitment, preparation , oversight and recognition of volunteer resources; (Volunteer programs should be designed and assessed with the same stringency as other programs.)
- give volunteers a clear statement of the tasks and activities that they are to carry out, perhaps including job descriptions or volunteer agreements;
- adopt and adhere to codes of ethical conduct for managers of volunteers and volunteers themselves;
- provide adequate orientation, training and evaluation;
- publicly recognize the contributions of volunteers;
- screen volunteers, particularly if the organization works with vulnerable populations;
- provide direction and, in unionized environments work with the unions to reach agreement, on how the paid or non-voluntary volunteers are to be integrated into the organization; and
- establish explicit expectations about the claiming of expenses.

2.7 Assessment and Control Systems

- adopt and enforce a code of ethical conduct and an effective monitoring and complaints procedure;
- establish a framework for internal regulations, including a constitution and bylaws (these might be quite simple in small organizations);
- ensure that compliance audits are carried out as an integral part of the annual evaluation cycle to regularly check that the rules governing the organization are being followed and that control systems are functioning and adequate; (This would normally be supervised by the audit committee. Upon receiving the report of the audit committee, the board has a responsibility to respond, indicating how it has addressed issues of noncompliance identified by the committee.)
- evaluate the performance of the board collectively; and
- evaluate the performance of staff and volunteers.

2.8 Planning for Succession and Diversity

- appoint a nominating committee, independent of management, which is charged with responsibility for assessing the qualities of board members desired, developing selection criteria and proposing suitable candidates; and
- discuss whether the representation of constituencies and users on the board is important to the organization's mission and credibility and, if appropriate, work toward increasing the diversity of representation on the board. It should be recognized, however, that token representation is not an adequate response to the issue of diversity.

3. Demonstration of Good Governance

As a condition of registration as a body that can issue federal tax receipts, every organization has three responsibilities. It should:

- provide certain information to the federal government about its governance, programs and finances;
- adhere to a code of ethical fundraising as developed by the Canadian Centre for Philanthropy, or one similar in principle that is publicly available; and
- practice transparency, that is, respond appropriately to complaints and requests for information by the public, members or clients.

PROGRAM OUTCOMES

4. Outcome Based Performance Assessment

Voluntary organizations should establish objectives that reflect desired results, rather than activities, and should determine benchmarks or other indicators – either qualitative or quantitative – against which progress toward achievement of those objectives can be assessed and reported. Results, and progress towards the achievements of strategic objectives should be evaluated annually. The strategic objectives themselves should be reviewed every two years.

5. Research by Intermediary Organizations

Intermediary associations are encouraged to undertake research to help develop indicators for their members, create outcome-assessment tools that can be used by their members, sponsor training programs and accumulate data from members to provide a sector-wide perspective on outcomes.

FUNDRAISING

6. Codes of Ethical Fundraising

All voluntary organizations that raise money from the public should adopt the Code of Ethical Fundraising and Financial Accountability developed by the Canadian Centre for Philanthropy, or an equivalent code addressing the same issues, through a formal resolution of the board, and report publicly on so doing.

TO DONORS

FUNDRAISING

7. Responsibility for Informed Giving

Donors have a responsibility for making informed decisions about their contributions to voluntary organizations. Donors who are unfamiliar with, or uncertain about, an organization seeking their support should ask questions before donating, as outlined in the Canadian Centre for Philanthropy's publication, *Give Generously and Wisely*. They should ask:

- the name of the organization;
- the nature of the organization's activities and the purpose for which donated funds will be used;
- whether the solicitor is a volunteer or paid, and if paid, whether the payment involves a commission or percentage of the amount donated; (Donors should be aware that commissions and percentage-based compensation for fund raisers are generally considered to be unethical.)
- how to obtain additional information about the organization; (Donors who wish to know more information about the organization's finances or governance should make further inquiries before donating.)
- whether the organization has adopted a code of ethical fundraising.

TO FOUNDATIONS, CORPORATIONS AND FUNDERS

CAPACITY BUILDING

8. Better Research and Training

All stakeholders – including intermediary organizations, governments, corporations, learning institutions, and individual voluntary organizations – should work together to develop and support research and training opportunities in the sector and to disseminate the research produced.

9. Improved Information Technology

All stakeholders should work together to improve the sector's information technology and to develop the expertise to use it effectively.

10. An Association of Foundations

Foundations should create their own national organization, including all foundations operating in Canada. They should also, collectively and individually, provide support for capacity building, including organizational infrastructure, education and training and the work of other intermediary organizations.

11. Corporate Support for Voluntary Organizations

Corporations should explicitly review and enhance ways by which they can exercise their responsibility and support for voluntary organizations. These include: at least meeting Imagine's minimum giving target of one percent of pre-tax profits; implementing policies of pure philanthropy not just cause marketing; lending expertise and other forms of in-kind support; providing or assisting with training programs; creating genuine partnerships with voluntary organizations; supporting volunteerism by employees; enhancing dialogue with the sector; and conducting model social audits.

12. Reporting on Corporate Contributions

Corporations should publicly report their contributions to the sector, both financial and in-kind, as part of their annual reports.

PROGRAM OUTCOMES

13. Support for Outcome-Based Assessment

Funders should:

- provide multiyear financing to permit the implementation of strategic objectives and consistency in programming, thereby allowing outcome-based assessment to be carried out in an on-going way;
- ensure that grants or contracts cover the costs of evaluation;
- work with voluntary organizations to develop appropriate methods and measures;
- help build capacity in the sector, including training, assisting with technology, and communicating innovation through the sector;
- pool resources, as appropriate, to create adequate investment in larger assessment and social auditing projects; and
- do their own performance assessments.

14. Support for Organization Infrastructure

Funders should take into account the costs associated with the core operations of voluntary organizations, including the staff and other resources required for training, coordination and management of volunteers, management and board development needs, and information technology. In requests that include support for management

of a volunteer component, funders should consider requiring evidence that the organizations has adopted human resource policies concerning the recruitment, preparation and oversight of volunteers.

15. Support for Collaboration

In the cause of assisting voluntary organizations which are themselves interested in developing collaborative arrangements, including mergers, funders should support this process by providing resources and by lending guidance and expertise, while respecting the autonomy of organizations and leadership of boards.

TO FEDERAL AND PROVINCIAL GOVERNMENTS

CAPACITY BUILDING

16. Greater Understanding Between Governments and the Sector

Both the federal and provincial governments should enter into discussions with the sector to establish mechanisms, such as compacts or other ongoing forums, for promoting understanding and agreement on appropriate conduct and the future of the relationships between the sector and governments.

17. A Voice at the Cabinet Table

The federal and each provincial government should assign responsibility for the voluntary sector to a Minister within the Cabinet and establish a small, internal coordinating policy unit.

18. Core Funding for Intermediary Organizations

Governments should reinstitute and increase a modest core funding of intermediary associations in order to support their important work in promoting and enhancing improved governance and accountability by their member and grassroots organizations.

GOVERNANCE AND STEWARDSHIP

19. Differential Reporting Requirements

Small organizations, defined as organizations with annual operating budgets of less than say $200,000, should be subject to lesser reporting requirements than larger organizations whose annual budgets exceed this amount.

20. Reporting Requirements for Small Registered Charitable Organizations

As a condition of being registered to issue federal income tax receipts for donations, small organizations (with annual operating budgets under $200,000) should be required to report on an annual basis the following information to Revenue Canada which would be cross-filed with the proposed new Voluntary Sector Commission. This information would be made public. Note that some of this information will be the same from one year to the next; organizations would only have to update any information that has changed from the previous year. This information is both qualitative and quantitative. It includes:

- description of the organization's mission, programs and intended results;
- financial statements, as approved by the board;
- description of fundraising activities over the past year including amount of revenues raised and amount spent on raising them;
- description of basic governance structures, including size of board and methods for selecting board members;
- disclosure of the code of ethical fundraising to which the organization adheres;
- description of the organization's approach to responding to complaints; and
- how to get further information directly from the organization.

21. Reporting Requirements for Large Registered Charitable Organizations

Larger registered charities/public benefit organizations should be expected to provide these basics, plus additional information about their governance. In addition to filing their annual reports, they should be required to provide information to Revenue Canada and the proposed Voluntary Sector Commission about how they fulfil the eight key tasks outlined in the good practice guide. This would involve reporting on key indicators related to:

- the nature of the mission, intended outcomes and strategic planning processes;
- overview of policies for transparency, including information on the organization's code of ethical conduct and complaints process, and the number of board meetings for the past year;
- description of governing structures, including whether an independent nominating and an audit committee exist;
- summary of methods of board stewardship;
- evidence of fiscal responsibility as through provision of audited financial statements; and
- methods for board succession and diversity of representation (if applicable).

22. Review of the T3010

The T3010 form should be reviewed by Revenue Canada, working in full collaboration with representatives of the sector, with the goal of making reporting easier and more relevant.

23. Reporting by Competing Private Sector Contractors

Private sector firms submitting bids to government agencies in direct competition with registered charities should be required by the contracting agency to disclose the same level and type of information as is available from the federal government on the registered charitable organizations.

FUNDRAISING

24. Code of Ethical Fundraising as a Condition of Registration

As a condition of registration for tax credit status, a voluntary organization should adopt and renew every two years, a code of ethical fundraising and financial accountability similar in principle to the code developed by the Canadian Centre for Philanthropy, the contents of which would be publicly available. (Note that this would prohibit percentage based fundraising and the selling of donor lists.)

25. Licensing and Bonding of Commercial Fundraisers

Commercial fundraising companies that directly collect fundraising revenues for campaigns in excess of $25,000 should be licensed and bonded by provincial governments. A condition of licensing could be adherence to a professional code of conduct, such as that promulgated by the NSFRE.

26. Direct Government Competition for Fundraising

Governments should engage in a discussion and reach some understanding with sector leaders about direct government competition for fundraising.

ACCESS TO THE FEDERAL TAX SYSTEM

27. Modernization and Clarification of Access to the Federal Tax System

The definition of which organizations qualify for the benefits of the tax system as registered charities and public benefit organizations should be set in legislation. The legislated definition should be a “charity-plus” model which keeps the existing criteria of the common law definition, but adds a list of other “public benefit” purposes that would also qualify.

28. Process for Establishing a Legislated Definition

The following process should be followed for establishing a legislated definition:

- a task force (involving representatives of government and the voluntary sector with the sector as a full and equal partner) be established to develop a modernized concept.
- this proposal is presented to Parliament which debates and adopts a definition which is incorporated in the *Income Tax Act*.
- The definition should be reviewed periodically to meet changing circumstances and values. Review by a task force of government and sector representatives every ten years should be made mandatory in the legislation. Individual organizations that have been denied status could still appeal to the courts if they believe that the policy has been misapplied by the agency responsible for registration. The definition having been decided upon by Parliament, however, such cases in the future would be less significant in shaping the direction and content of the policy.
- A province could adopt the same concept for purposes of governance and incorporation in parallel provincial legislation. Of course, it could also chose to define charity in ways that differ from the federal government. In the interests of enhancing public transparency and understanding, however, we urge both levels of government to find as much common ground and concordance as possible between their application of definitions.

29. Open and Transparent Registration Process

The registration process should be open and transparent. All applications for and decisions regarding registration should be considered public information. The federal government should routinely publish policy guidelines for interpretation related to "grey" areas between legislative reviews.

30. Appeals to the Tax Court

The court of first instance for appeals of federal government decisions on individual cases should be changed from the Federal Court of Appeal to the Federal Tax Court in order to make the appeal process more accessible and less expensive.

A NEW VOLUNTARY SECTOR COMMISSION

31. A New Voluntary Sector Commission

The federal government should establish a new Voluntary Sector Commission with the following functions:

- Provide support, information, and advice about best practices to voluntary organizations related to improving accountability and governance;
- Collect and provide information to the public;

- Evaluate and make recommendations on registration for new applicants; and
- Assist organizations to maintain compliance with Revenue Canada and other regulatory requirements, and investigate public complaints.

31.1 Mandate of the New Commission

Only registered organizations would be required to provide information. The Commission would also co-operate with nonprofit organizations which may wish to obtain information or voluntarily file information with the Commission.

31. 2 Specific Features of the New Commission

The Commission should function in the following manner:

- It would have a degree of independence from both government and the sector. To establish this arm's-length relationship, the agency would be headed by independent commissioners, perhaps numbering between five and seven, named by the federal government. The basis of the appointment should be expertise and merit. A significant portion of the commissioners (at least a third) should have had extensive experience working or volunteering in the sector.
- It would report to Parliament through a minister, who among other possible responsibilities, would be known as the Minister for the Voluntary Sector.
- It would table an annual report with Parliament on its activities and outcomes.
- It would be funded by the federal government.
- It should establish an effective working relationship with the sector. One way to achieve this is for the Commission to hire a number of its key employees who have experience in the sector. A second way is to work collaboratively and in true partnerships with the sector. Third, a reference group from the sector should be established to provide advice and serve as a sounding board.
- It should work closely and share information with Revenue Canada.
- It must work in an accessible and decentralized way. People who live outside of Ottawa have to be able to access the agency easily. This could be done through several means including a sophisticated, but user-friendly website, partnerships with intermediary and other voluntary organizations, regional offices (co-located with existing federal offices or voluntary organizations) and by creating regional advisory groups.
- It should have a small staff. Although it is difficult to estimate numbers at this point, a staff of less than 100, about the current size of the Charities Division of Revenue Canada, would probably be appropriate

REGULATION OF FINANCIAL ACCOUNTABILITY

32. Guidelines for Related Business

The federal government should provide clearer guidelines on related and unrelated business and consult with the sector on these. A business should be considered related and permissible if it:

- promotes, extends, supplements or is an offshoot of the organization's charitable goals, or;
- uses specialized expertise developed in the course of the charitable work, or;
- maximizes the use of assets and personnel necessary to the usual operation of the charity, or;
- uses goods or services which have all been donated, or;
- involves substantial voluntary labour in the production or distribution of the goods and services, and;
- does not place the assets or finances of the organization at undue risk or displace the charitable mission as the dominant activity, and;
- does not distribute the income earned for private gain (naturally, salaries and operating expenses can be paid).

The *Income Tax Act* and other legislations should be amended to permit registered voluntary organizations to undertake business activities that are neither related to their mission nor conducted primarily with voluntary labour, but require them to pay income tax on the profits from unrelated business. If an unrelated business is divested into a separate, taxable entity, this entity should be able to deduct from its income, subject to the usual limits, its donations to its owning charity.

33. Non-Partisan Political Activity

The federal government should reaffirm and maintain the legitimacy of space for non-partisan political advocacy. While partisan activities should continue to be forbidden, the right of bearing a public witness on an issue affecting the very purpose of a charitable organization should be affirmed. The rules governing advocacy activity need to be clarified in ways that can be better understood, that militate against arbitrary application and that cohere with the values of a healthy civil society. In particular, the 90/10 rule has to be regarded as only an approximate standard since allocations under it are extremely difficult for a registered organization to calculate or Revenue Canada to measure. The important tests are that the rule not be applied in an arbitrary or unduly restrictive manner.

34. Disbursement Quota

Revenue Canada, in consultation with the voluntary sector, should review the appropriate levels and calculation of the disbursement quota and alternatives to it, including replacing the quota with a standard of accumulation (the amount of money that a registered organization can accumulate over a fixed period of time).

35. Consistency in Accounting Practices

Revenue Canada and the new Voluntary Sector Commission should continue to work with the Canadian Institute of Chartered Accountants and the sector to develop greater consistency in accounting practices, including the definition of fundraising and general administrative costs.

36. Intermediate Sanctions

The federal government should implement intermediate sanctions for non-compliance with regulations on a sliding scale. These could range from information letters, publicity, and fines before threatening or imposing deregistration.

THE LEGAL FRAMEWORK

37. Federal Reforms to Organizational Law

The federal government should expedite the work begun by Industry Canada to develop and pass through Parliament a new nonprofit corporation bill. The goal of such a bill would be to modernize the law and give the nonprofit corporation the powers of a natural person, balanced by restrictions that do not allow the stated objectives of the organization to be too readily changed. It should be designed to serve and accommodate the diversity of the sector by including appropriate classifications that address charitable, religious, and mutual benefit organizations, among others, and by making appropriate exemptions and accommodations for certain classifications.

38. Consistency of Organizational Law Across Provinces

The provinces should collaborate to develop organizational laws consistent with each other and the federal level, although room for accommodation by individual provinces for needs specific to the province should be permitted. They should enact modern legislation governing trusts and unincorporated associations. In the latter case, the provisions of Quebec's civil code and the United States' 1992 Unincorporated Association Act could serve as useful models.

39. Harmonized Reporting

The disclosure of information required under organizational law across jurisdictions should be harmonized with the information to be required by Revenue Canada and the Voluntary Sector Commission so that double reporting is not required.

40. Codification of the Standards of Care and Loyality

The general standards of the duty of care and loyalty should be codified and applied more consistently to all nonprofits (regardless of their legal form).

41. Limits on Directors' Liability

Board members should be fully responsible in cases of fraud, gross negligence, conflict of interest, or criminality on their part; in such cases, no limitations of liability should apply. Otherwise the degree of liability should be capped to a reasonable maximum and a due diligence defence should be available. The federal and provincial governments should work with insurers and the sector to determine the appropriate level of this cap.

PRIORITIES FOR IMPLEMENTATION:

The four priorities for immediate action are:

1. The good practice guide should be disseminated to intermediary and other voluntary organizations. Its adaptation and adoption should be a high priority for voluntary organizations to increase public confidence in their contribution and their value. Voluntary organizations are expected to report on their compliance in the context of their self-assessment, as well as take other efforts to improve transparency and accountability.
2. The creation of a new Voluntary Sector Commission by the federal government is an essential element in improving accountability and building capacity in the sector. The federal government should move quickly to establish it with a goal to having it in place within a year.
3. Canada's Parliament, not judges, should decide which organizations are "charitable." The federal government, in collaboration with the provinces and the sector, should create a Task Force representing government and the sector to begin the process of establishing a democratically-determined, legislated definition of which organizations should qualify for access to the benefits of the federal tax system.
4. Both federal and provincial governments should begin to renew their relationships with the sector by entering into discussions with the sector that may lead to negotiation of a compact of good practice or creation of other means for enhancing ongoing dialogue, understanding and genuine partnership.

NOTES

1 Voluntary Sector Roundtable members are Canadian Centre for Philanthropy, Canadian Conference of the Arts, Canadian Council for International Co-operation, Canadian Council on Social Development, Canadian Environmental Network, Canadian Parks/Recreation Association, Community Foundations of Canada, Representative for the faith communities, National Voluntary Health Agencies, National Voluntary Organizations, United Way of Canada-Centraide Canada, and Volunteer Canada

2 David Sharpe, *A Portrait of Canada's Charities* Toronto: Canadian Centre for Philanthropy, 1994, p. 16.

3 Canadian Centre for Philanthropy, Non-Profit Sector Research Initiative, Volunteer Canada, Canadian Heritage, Health Canada, Human Resources Development Canada, and Statistics Canada, *Caring Canadians, Involved Canadians: Highlights from the 1997 National Survey of Giving, Volunteering and Participating.* Ottawa: Ministry of Industry, 1998. The survey exemplifies the potential of governments and the sector working in true partnership because it is the product of collaboration between several voluntary organizations and federal government departments. The survey also reports that although the percentage of citizens who volunteer and the total hours volunteered has increased, the average number of hours contributed per volunteer has decreased from 191 hours per year in 1987 to 149 hours in 1997.

4 *Caring Canadians, Involved Canadians*, pp. 37-40.

5 See, for example, David Zussman, "Do Citizens Trust Their Governments?" *Canadian Public Administration*, 40, 2, summer, 1997, pp. 234-54.

6 Task Force on the Future of the Financial Services Sector, *Change Challenge Opportunity: The Report of the Task Force.* Ottawa, Department of Finance, 1998, p. 20.

7 Ontario Securities Commission, *Regulatory Strategies for the Mid-'90s: Recommendations for Regulating Investment Funds in Canada.* Prepared by Glorianne Stromberg. Toronto: Canadian Securities Administrators, January 1995, p. 3.

8 G. Ross Ramsey and Rose Reynolds, *The Social Reconnaissance Project: Discovering Philanthropic Leadership Opportunities*. Vancouver: Vancouver Foundation, 1997, p. 14.

9 Liberal Party of Canada, *Securing Our Future Together: Preparing Canada for the 21st Century.* Ottawa, 1997. Available at http://www.liberal.ca/plan/c0-02_e.html.

10 Advisory Board on the Voluntary Sector, *Sustaining a Civic Society: Voluntary Action in Ontario*. Toronto: Queen's Printer for Ontario, 1997.

11 Liberal Party of Canada, *Securing Our Future Together.*

12 These compacts can be found on the Internet at http://www.nicva.org/compact.html (for Ireland), http://www.sol.co.uk/s/scvo/ (for a summary for Scotland); and http://www.ncvo-vol.org.uk/main/gateway/compact.html (for a briefing on England's compact).

13 Ontario also has the position of a Parliamentary Secretary for the sector, but this position does not have the status of a full minister.

14 For example, the counterpart to NVO in the UK, the National Council for Voluntary Organisations (NCVO) has a staff of 80 and total annual income of over £45 million; by comparison, NVO has a staff of three and annual income of $250,000. See NCVO, *1996-97 Annual Review*. London: NCVO, 1997, pp. 18 and 23.

15 Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy.* Princeton: Princeton University Press, 1995, pp. 65-78.

16 Quoted in "Forging Partnerships: Corporate Citizenship for a New Millennium," *Imagine* (An advertising Supplement Published by the *Globe and Mail),* November 6, 1998, Section C.

[17] Max Brem, "In the Dark: Role and Value of Charitable Sector Little Known Among Public," *Inter Sector: A Newsletter for Imagine Community Partners*, 4, 3, March/April 1998, p 2.

[18] André Picard, "Profit in Giving," *A Call to Alms: The New Face of Charities in Canada.* Toronto: The Atkinson Charitable Foundation, 1998, pp. 8-12.

[19] A similar recommendation was made by the Task Force on the Future of the Financial Services Sector in its 1998 report, calling on financial institutions to issue an annual "Community Accountability Statement." See Task Force, *Change Challenge Opportunity*, p. 170.

[20] In particular, since the publication of John Carver's book, *Boards that Make a Difference* in 1990 (San Francisco: Jossey-Bass), many voluntary organizations have debated their own philosophies of governance, reviewed their practices and invested considerable energy deciding whether "to Carver" or not.

[21] Toronto Stock Exchange Committee on Corporate Governance in Canada, *Where Were the Directors? Guidelines for Improved Corporate Governance in Canada* Toronto, December 1994.

[22] David Brown, Debra Brown and Kimberley Birkbeck, *Canadian Directorship Practices 1997: A Quantum Leap in Governance* Ottawa: Conference Board of Canada, January 1998, p. 3.

[23] We are not the first to attempt to develop a guide to good practice for voluntary organizations and in our process we have borrowed from a number of sources, as well as from the feedback and briefs received during our consultations. Two particularly useful sources are: the Standards for Excellence developed by the Maryland Association of Nonprofit Organizations which can be accessed at http://www.mdnonprofit.org/ethicbook.html and the Minnesota Council of Nonprofit whose standards can be obtained at http://www.mncn.org/pnp_index.htm.

[24] In practice, risk assessment means that the board has ensured that management has implemented an effective process to identify the sources of risk, determine what risks are acceptable, minimize the risk and where possible, monitor and manage the risk. See Deloitte and Touche, *The Effective Not-for-Profit Board*. Deloitte and Touche, 1995, p. 8; and Canadian Institute of Chartered Accountants, *Guidance on Assessing Control – The CoCo Principles*. Toronto, June 1997.

[25] Drawn from the Maryland Association of Nonprofit Organizations, "Standards of Excellence," p 6.

[26] Alberta Community Development, in conjunction with Grant MacEwan Community College and the Muttart Foundation, have developed an excellent self-guided workbook on writing job descriptions of the board as part of their series on board development. It is designed to be used by even very small, strictly voluntary organizations, as well as larger ones. See *Board Development: Job Descriptions for Board Members.* Edmonton: The Muttart Foundation, 1997.

[27] For an example, see Walter P Pidgeon, Jr., *The Universal Benefits of Volunteering: A Practical Workbook for Nonprofit Organizations, Volunteers, and Corporations.* New York: John Wiley & Sons, 1998, chapter 4.

[28] The Canadian Administrators of Volunteer Resources/Administrateurs canadiens des ressources bénévoles (CAVR/ACRB) had developed a Code of Ethics to assist administrators of volunteer resources deal with difficult ethical decisions CAVR recommends that organizations employ individuals who subscribe to the CAVR Code of Ethics. They have also developed useful standards of practice to ensure quality and accountability in the administration of volunteer resources.

[29] See Canadian Institute of Chartered Accountants, *Guidance on Assessing Control – The CoCo Principles*, pp. 2-3.

[30] Throughout our discussion of reporting requirements, we are excluding religious (eg. monastic) orders because, even though they are registered charities, they do not issue tax receipts; their property belongs to the Church and they are governed by Canon Law. The longstanding practice by Revenue Canada that exempts them from disclosing financial information should be continued.

[31] We have been careful to say "respond appropriately" because not every request demands a full response or disclosure; some information is private and confidential For example, donor lists are the private property of the organization and should not be available upon request. Some test of reasonableness must be applied in individual cases.

[32] Consultation in Charlottetown, Prince Edward Island, October 1998.

[33] Margaret C. Plantz, Martha Taylor Greenway and Michael Hendricks, "Outcome Measurement: Showing Results in the Nonprofit Sector," In Kathryn E. Newcomer (ed.), *New Directions for Evaluation*. San Francisco: Jossey-Bass Inc., 1997. Available on the Web at: http://www.unitedway.org/outcomes/ndpaper.html.

[34] H. Hatry, T. van Houten, M. C. Plantz and M. T. Greenway, *Measuring Program Outcomes: A Practical Approach*. Alexandria, VA: United Way of America, 1996, p. 2.

[35] Plantz, et al, "Outcome Measurement: Showing Results in the Nonprofit Sector," p. 12.

[36] Plantz, et al, "Outcome Measurement," p. 12.

[37] This represents 27 of the 87 organizations which responded to our on-line survey.

[38] For a listing of the county benchmarks and their meaning, see http://wwwmultnomah.lib.or.us/mccf/mccfbms.html.

[39] See Susan D. Phillips and Katherine A. Graham, "Hand-in-Hand: When Collaboration Meets Accountabiliy in the Voluntary Sector," Kahanoff Non-Profit Initiative collection of papers, Keith Banting (ed.). Kingston: Queen's School of Policy Studies, forthcoming 1999.

[40] Donations fell during the recession in the early 1990s. However, in 1996, 26.9 percent of taxfilers claimed a charitable credit, up from 26.7 percent in the previous year. See Michael H. Hall and Sandra L. Bozzo, "Trends in Individual Donations: 1984-1996," *Canadian Centre for Philanthropy Research Bulletin*, v, 4, Fall 1997, p. 3. The 1997 National Survey of Giving, Volunteering and Participating found that fewer Canadians gave money to charities in 1997 than the year before, but on average they gave more. The decline in the number of donations was the largest this decade (3.1 percent), while the increase in donations was the second largest. Part of the increase may be attributed to new, higher maximum deduction limits (75 percent of net income compared with the previous limit of 50 percent).

[41] Canada West Foundation and Canadian Centre for Philanthropy, *Regulation of Charities in Alberta.* Calgary: Canada West Foundation, March 1995, pp 4-5.

[42] Michael Hall, *Charitable Fundraising in Canada.* Toronto: Canadian Centre for Philanthropy, 1996, pp. 68-69.

[43] Arthur B. C. Drache with Frances K. Boyle, *Charities, Public Benefit and the Canadian Income Tax System: A Proposal for Reform*. Toronto: Kahanoff Nonprofit Sector Research Initiative, September 1998, p. 8.

[44] The evolution of these categories has naturally been contested. For example, the definition of religion in the face of New Age groups that foster spiritually and personal growth has come under attack; Revenue Canada uses an interpretation that presupposes a belief in and reverence for a god or gods. The advancement of education has been a particularly troublesome category as many advocacy groups have attempted to attain charitable status on the basis that they are "educating" the public. The position of Revenue Canada is that instruction must be unbiased and not intended to persuade the learner to adopt a pre-determined point of view.

[45] For an extensive discussion of the definition and evolution of the concept of charity in the Canadian context, see Frances K Boyle, "'Charitable Activity' under the Canadian *Income Tax Act*: Definition, Process and Problems." Paper prepared for the Voluntary Sector Roundtable, January 1997.

[46] Revenue Canada takes the apparent position that the community in question must be the community at large, not a subset such as women or a specific cultural community.

47 Justice James K. Hugessen in the majority judgement of the Federal Court of Appeal in *Vancouver Regional Freenet Assn v. The Minister of National Revenue*, July 1996.

48 Drache with Boyle, *Charities, Public Benefit and the Canadian Income Tax System*, p. 10.

49 Quoted in Boyle, "'Charitable Activity' under the Canadian *Income Tax Act*," p. 45.

50 Drache with Boyle, *Charities, Public Benefit and the Canadian Income Tax System*, pp. 64-83.

51 Liberal Party of Canada, *Securing Our Future Together.*

52 For a detailed history of the Department of Secretary of State's relationship with citizenship and citizen organizations, see Leslie A. Pal, *Interests of State: The Politics of Language, Multiculturalism, and Feminism in Canada*. Montreal and Kingston: McGill-Queen's University Press, 1993, pp. 78-150; for a discussion of the evolution of Canada's citizenship regime, see Jane Jenson and Susan D. Phillips, "Regime Shift: New Citizenship Practices in Canada," *International Journal of Canadian Studies*, 14, fall, 1996, pp. 111-36.

53 In 1963, the current system of registration was not yet in place; this figure represents the number of organizations that the Department of Revenue had identified as meeting the criteria to qualify as charities (in response to requests for such recognition by organizations). See, Ontario Law Reform Commission, *Report on the Law of Charities*, 1996, Chapter 10. Available on the Internet at http://www.attorneygeneral.jus.gov.on.ca/olrc/charities/main.htm.

54 Lester Salamon quoted in "A World of Difference," *The Chronicle of Philanthropy*, XI, 3, November 19, 1998, p. 33. Professor Salamon was referring to findings of a comparative study of the sector in twelve countries recently published by the Center for Civil Society Studies at Johns Hopkins University (Canada was not among them). However, evidence in the Canadian context reveals a similar lack of public knowledge about the sector.

55 Note that Revenue Canada has already started to make the T3010 information available on a website, although it was not yet operational at the time of our report We are proposing that this website be maintained and updated by the Commission, rather than by Revenue Canada.

56 For a fuller picture of the Charity Commission, see Arthur B. C. Drache, "The English Charity Commission Concept in the Canadian Context," *The Philanthropist/Le Philantrhope*, 14, 1, 1997, pp. 8-26. The Commission's website address is: http://www.charity-commission.gov.uk.

57 The regulations on political activity were initially set out by Revenue Canada in its publication, *Circular 87-1*, Ottawa, 1987. (An earlier attempt was withdrawn soon after its release in 1978.) At the time of publication of our final report, the description of these rules was in the process of being updated and circulated for consultation with the sector. We have based this description on Revenue Canada's draft publication, *RC4107E - Registered Charities: Education, Advocacy, and Political Activities.* Ottawa: September 1998. Available at: http://www.rc.gc.ca/~dwdrink/e4107dis.htm.

58 Human Life International had its charitable status revoked because it was not devoting substantially all of its resources to charitable activities. The court upheld Revenue Canada's decision to revoke its status.

59 See Marilyn Taylor, "Between Public and Private: Accountability in Voluntary Organisations," *Policy and Politics*, 24, 1, 1996, p 69.

60 By business activity, we mean systematic and sustained efforts to generate income from the sale of goods and/or services. The description does not refer to single or occasional fundraising events such as a casino night or gala dinner. For a discussion of the pros and cons of business activity for voluntary organizations, see J. Gregory Dees, "Enterprising Nonprofits," *Harvard Business Review*, January-February, 1998, pp. 55-67; and Brenda Zimmerman and Raymond Dart, *Charities Doing Commercial Ventures: Societal and Organizational Implications*. Toronto and Ottawa: The Trillium Foundation and Canadian Policy Research Networks, April 1998.

61 *Alberta Institute on Mental Retardation v The Queen* [1987] 2 C.T.C., 70. 87 D.T.C. 5306 (F.C.A.).

62 Note that in our May 1998 Discussion Paper, we implied that business activities which are direct and inappropriate competition with the private sector should be regarded as unrelated business. Upon reflection, we realize that this is not an entirely appropriate test. It is not only wrong in principle, but would be too restrictive in practice. Many voluntary organizations have been delivering goods and services as part of their charitable mission (as well as related businesses) for years which, more recently, private firms have begun to offer on a commercial, for-profit basis. In these instances, the restrictive definition in our Discussion Paper could conceivably drive the charities out of their traditional activities.

63 Ontario Law Reform Commission, *Report on the Law of Charities*.

64 For more extensive discussion, see McCarthy Tétrault, *Directors' and Officers' Duties and Liabilities in Canada.* Toronto: Butterworths, 1997, p. 264 and Ronald Hirshhorn and David Stevens, *Organizational and Supervisory Law in the Nonprofit Sector*. Ottawa: CPRN, 1997, p. 14.

65 Hirshhorn and Stevens, *Organizational and Supervisory Law in the Nonprofit Sector*, p. 11.

66 This recommendation is also made by the Ontario Law Reform Commission, *Report on the Law of Charities*, chapter 16.

67 Laird Hunter, "The Need for Vigilance: Supervising the Supervisors," *LawNow*, August/September, 1997, pp 36-7.

68 See Donald J Bourgeois, *The Law of Charitable and Nonprofit Organizations* 2nd ed. Toronto: Butterworths, 1995.

69 Hirshhorn and Stevens, *Organizational and Supervisory Law in the Nonprofit Sector*, p. 24.

70 Toronto Stock Exchange Committee on Corporate Governance in Canada, *Where Were the Directors?*, section 115.

APPENDIX I

MAY - OCTOBER 1998

THE CONSULTATION PROCESS:

Following release of the Discussion Paper in early May 1998, the Panel led three streams of consultations with the voluntary sector and other interested parties:

- roundtables were held in 15 major centres. Each session was hosted by a local organization(s) which had responsibility for inviting representatives from a cross-section of voluntary organizations in the community or province. In addition, the Vancouver Foundation supported similar sessions in two smaller centres in British Columbia and the Muttart Foundation provided funding for a video-conference of representatives from voluntary organizations in five Alberta towns.
- individuals and organizations were invited to submit briefs or to respond to our questionnaire, either on-line or in print form.
- a discussion guide was provided for organizations to use in facilitating discussions among their own members and constituencies, the results of which could be forwarded to the Panel if desired.

LIST OF CENTRES IN WHICH CONSULTATIONS WERE HELD

Centre	Date	Local Host Organization
Victoria, B.C	September 11	Victoria Foundation
Vancouver, B.C.	September 10	Vancouver Foundation
Vancouver, B.C.	September 10	Vancouver Status of Women & Status of Women Canada
Kelowna, B.C.	October 29	Central Okanagan Foundation
Prince George, B.C.	October 30	Prince George Foundation
Whitehorse, Yukon	October 22	-
Calgary, Alberta	May 28	Volunteer Centre of Calgary
Athabaska, Brooks, Grande Prairie, Lethbridge, Provost, Alberta	Video conference October	Muttart Foundation Board Development Program, Alberta Community Development
Regina, Saskatchewan	June 4	United Way of Regina
Saskatoon, Saskatchewan	June 5	United Way of Saskatoon
Winnipeg, Manitoba	September 18	United Way of Winnipeg
London, Ontario	October 7	United Way of London & Middlesex
Peterborough, Ontario	September 18	United Way of Peterborough
Toronto, Ontario	October 8	United Way of Greater Toronto
Toronto, Ontario	October 9	Canadian Council of Churches
Ottawa, Ontario	October 14	Community Foundation of Ottawa-Carleton
Montreal, Quebec	September 25	Conseil de la Philanthropie
Saint John, New Brunswick	October 15	Human Development Council & the United Way
Charlottetown, P.E.I.	October 16	United Way of Prince Edward Island
Halifax, Nova Scotia	October 2	Metro United Way
St. John's, Newfoundland	October 5	Community Services Council

LIST OF BRIEFS SUBMITTED

(in alphabetical order)

Amity Goodwill Industries

Anglian Diocese of Ontario

Anglican Church of Canada

Anglican Diocese of Ontario

Arklie, Hugh

Arthritis Society

Association for Healthcare Philanthropy Canada

Autism Society of British Columbia

Baptist Convention of Ontario and Quebec

Beaulieu, Leo

Beaumier, Colleen, MP Brampton

Bell, Don

Belleville, Ontario (Workshop of 16 Executive Directors, Managers and Volunteers)

Best Communications Group

Bethany Care Society

Black Creek Focus Community Group

Boys & Girls Clubs of Alberta

Boys and Girls Club of Leduc

Boys and Girls Club of Lethbridge

Boys and Girls Clubs of British Columbia

Brandon Seniors for Seniors Co-op Inc.

Bromley, Blake

Bryden, John, MP for Wentworth-Burlington

Canadian Administrators of Volunteer Resources

Canadian Association of Gift Planners

Canadian Bar Association Ontario

Canadian Cancer Society

Canadian Centre for Philanthropy

Canadian Council for International Co-operation

Canadian Council of Better Business Bureaus

Canadian Council of Christian Charities

Canadian Diabetes Association

Canadian Hearing Society

Canadian Hemochromatosis Society

Canadian Italian Family Assistance Associations

Canadian Red Cross

Canadian Religious Conference

Canadian Society of Association Executives

Canadian Unitarian Council

Captain William Spry Community Centre

Care Canada

Centraide Coeur du Québec (Drummondville)

Centraide Mauricie

Centraide Outaouais

Centre de Santé des Femmes de la Mauricie

CESO. SACO

Chartier, Rusty

Community Foundations of Canada

Community Social Planning Council of Toronto

Conseil de la Philanthropie

Corporation of the City of Brampton

Deloitte & Touche

Desjardins Ducharme Stein Monast

Diamond Valley & District Boys' & Girls' Club

Dow, Warren

Easter Seal Society, Ontario

Easter Seals/March Of Dimes National Council

Elks of Canada

Elliott, Bruce

Extend-A-Family, Building an Inclusive Community

Family Service Association of Metropolitan Toronto

Family Service Ontario

Fraser Institute

Federation of Independent School Associations

Fondation quebecoise de la deficience intellectuelle

Girl Guides of Canada, Ontario Council

Godfrey, Charles M.

Grant, E.

Gullage, Chris

Hamilton Health Sciences Foundation

Harvest Institute/Dodman-Kevany & Associates

Heart and Stroke Foundation of Canada

Hurd, Sharon

Indian International Seniors Club Brampton

Kerby Centre

Knights of Columbus

Krauser, John

Lincoln Community Care

Lotte & John Hecht Memorial Foundation

Manitoba Epilepsy Association Inc.

Manitoba Society of Seniors Inc.

Ministry of Education and Training

Moving Imagens Distribution

Museums Alberta

Muttart Foundation

National Society of Fund Raising Executives (NSFRE), Greater Toronto Chapter

National Voluntary Organizations

Neighborhoods' Forum

Nind, Paul F.

Non-Profit Sector Research Initiative

Non-Smokers' Rights Association

Ontario Community Support Association

Ontario March of Dimes

Ontario Social Development Council

Parkwood Hospital

Penticton Regional Hospital Medical Foundation

Peterborough Family YMCA

Presbyterian Church in Canada

Prince George Community Foundation

Real Estate Foundation of B.C.

Regroupement des cuisines collectives de France

Rehabilitation Institute of Toronto Foundation

Revenue Canada, Toronto West Tax Services Office

Semple, Robert

Sharpe, Marjorie

Social Planning Council of Cambridge and North Dumfries

Social Planning Council of Kitchener-Waterloo

Society for Manitobans with Disabilities

Soeurs de la Providence

Solntseff, Nicholas

SOS Children's Villages Canada

St. John Ambulance

St.Christopher House

Tanner, Adrian

Terra Association

Townshend, Jody

Toycen, Dave

United Church of Canada

United Way - Guelph

United Way of Brandon and District

United Way of Burlington, Hamilton-Wentworth

United Way of Canada – Centraide Canada

United Way of Greater Toronto

United Way of London & Middlesex

United Way of Peterborough

United Way of Prince Edward Island

United Way of Sault Ste. Marie

United Way of Winnipeg

United Way/Centraide Ottawa-Carleton

United Way/Centraide (New Brunswick) Inc.

Vandergrift, Kathy

Volunteer Canada

Volunteer Victoria

Von Benzol, Ernest

VON Canada

Vukovic, Ane

War Amps

Warden Woods Community Centre

Wells, E.

Western Association of Directors of Volunteers

Winnipeg League for the Hard of Hearing

World Vision Canada

YMCA Canada

YMCA of St-Catherines

APPENDIX II

TOOLS FOR BETTER GOVERNANCE AND ACCOUNTABILITY

1. An Example of a Code of Ethical Behaviour:
   Canadian Council for International Co-operation
2. Approaches to Outcome-Based Performance Assessment
3. Code of Ethical Fundraising and Financial Accountability:
   Canadian Centre for Philanthropy

1. AN EXAMPLE OF A CODE OF ETHICAL BEHAVIOUR: CANADIAN COUNCIL FOR INTERNATIONAL CO-OPERATION

A good example of the application of a code of ethics is the recent work of the Canadian Council for International Co-operation (CCIC), an umbrella organization of provincial, local and affiliated organizations working in international development and education. CCIC adopted a code of ethics in 1995 with full implementation required by 1997. The Code is built on two principles. First, it recognizes that resources are limited. CCIC, or similar voluntary organizations, do not have the resources or mandate to independently assess the ethical conduct of their members. Compliance is based on self-assessment and is not verified by an independent body. Member organizations agree to certain standards, learn how they might meet them and work hard to do so. Second, ethics are not static. CCIC has developed a guidance document to help individual organizations. It has also established an Ethics Review Committee that reviews standards and helps organizations deal with complaints, although it has no mandate to take disciplinary action (except in extreme cases). The Committee is composed of five people, appointed by the CCIC Board: one appointee will be a member of the CCIC Board and up to two come from outside the organization. The Committee meets three times a year.

The Code of Conduct covers the following areas (dealt with in specific detail in the actual Code):

- governance: e.g., requirements for an independent board; absence of conflict of interest; open disclosure of information
- organizational integrity: e.g., transparency, accessibility
- finances: e.g., an annual audited financial statement by a qualified accountant; fundraising costs kept to a minimum
- communications to the public: e.g., disclosure of information to potential donors; avoidance of messages that fuel prejudice

- management practice and human resources: e.g., clear and written policies related to employees and volunteers

Implementation of the code is based on a compliance review: as part of its annual renewal of membership in CCIC, a member organization must attest that it is in compliance with the Code. Compliance with the Code is a condition of membership in CCIC. A complaints or concerns procedure has been created that allows complaints about compliance to made by anyone at anytime to the Ethics Review Committee; these are reviewed during the three meetings of the Committee (unless exceptional). The approach to complaints is facilitative, rather than judgmental: the parties are brought together to examine different interpretations and common understandings. A standardized 'registration of concern' procedure has been developed, to which the offending organization must reply. Confidentiality of organizations and individuals involved in a complaints process is the norm, except if all parties have agreed to discuss the matter in an open learning, roundtable format.

The guide produced by CCIC provides useful and concrete suggestions for organizations as to specific kinds of policies and procedures they might implement to meet the code.

2. APPROACHES TO OUTCOME-BASED PERFORMANCE ASSESSMENT

As a result of our research and consultations, the Panel learned about four main approaches to outcome-based assessment:

- results-based management (RBM) first introduced by the Canadian International Development Agency (CIDA);
- outcome measurement as introduced by the United Way of America (UWA) and being implemented in Canada;
- the balanced scorecard, an adaptation from the private sector; and
- social auditing.

RESULTS-BASED MANAGEMENT (RBM)

Results-based Management was first introduced by CIDA and since has been adopted by the Treasury Board Secretariat of Canada as its practice for evaluation of all government services. It is the only one of the methods that distinguishes clearly between outcomes and longer term impacts, and how those might be monitored.[1] Unlike some of the other methods, RBM has no orthodoxy on how an organization

[1] Canadian International Development Agency, "Results-Based Management in CIDA -- A Policy Statement", at http://w3.acdicida.gc.ca/cida_ind.nsf/ It is telling that this approach has been adopted by Treasury Board as a standard for all government departments and agencies. At the same time, however, the bilateral labour force adjustment agreements between federal and provincial governments include "accountability measures" that are more closely related to outputs than results or outcomes.

might determine outcome goals or which data collection methods should be used to measure progress or success. The selection of outcome goals and methods are guided by six principles: simplicity; learning by doing; broad application; partnership; accountability; and transparency. The method has the advantage of being particularly adaptable to the wide diversity of organizations and programs within the voluntary sector. Its greatest drawback is that is does not offer sufficient guidance on how to get there from here — to results based management from current practices.

OUTCOME MEASUREMENT

The only approach "home-grown" within the voluntary sector is outcome measurement developed by the United Way of America and currently being implemented by several United Ways in Canada. Emphasizing the processes required to change to such an approach, the UWA first did theoretical research on models, then developed manuals and pamphlets to assist its member organizations and others in implementing such evaluation.[2]

The UWA's outcome measurement can be described as a process of logical reasoning to help organizations think clearly about the connections between inputs, outputs, and outcomes. This process proceeds by forcing us to think about: "if then, then that; if that, then this further thing; and if that further thing, then this might be a reasonable outcome to try to measure." For example, if the goal is to encourage a higher proportion of teen-aged girls to complete high school, one immediate angle might be an attempt to reduce teenage pregnancy. If that is selected as a strategy, an agency might decide that a combination of classroom instruction and increased access to contraception through a school-based clinic might be a reasonable approach. If these steps were taken, the students in the school could be expected to demonstrate more knowledge about and greater use of contraceptives, resulting in a decrease in teen-aged pregnancy for that student population. If there is such a decrease, there may be a higher completion rate among female students which could be measured over the next several years, resulting at least in part from the reduced teen-aged pregnancy rate. This "logic argument" could then be tested with data collection and analysis.

The point of such an approach, the UWA suggests, is to be clearer about goals, more innovative about activities to support these goals, and more certain of the effects of the organization's activities in terms of achievement of the goals set. Although this approach has begun to be implemented by United Ways and other organizations in Canada, it, like the other approaches, requires significant training of both staff and senior volunteers within organizations. A quick transition cannot be made and the injection of resources is required even before it can be tried.

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2 Martha Taylor Greenway, "The Status of Research and Indicators on Nonprofit Performance in Human Services", prepared for the Independent Sector Conference: Measuring the Impact of the Nonprofit Sector on Society, August 1996. Available at http://www.unitedway.org/outcomes/ispaper.html. See United Way of America, Measuring Program Outcomes: A Practical Approach. Alexandria, VA: United Way of America, 1996.

BALANCED SCORECARD

The most complex of the approaches, the Balanced Scorecard, has been taken directly from the private sector, where the goal is to maximize profit. It has since been applied to a wide range of charitable and non-profit organizations where the funders and clients are not the same people, and the goal is not likely to be maximization of any one quantifiable measure.[3] Using the most explicitly "economic" language to describe both goals and processes, this approach trades off "long-run service effectiveness" against a "given budget constraint", with the level of service being seen as a "compromise" between the funders and the clients.

While this may be a useful way to consider the costs and benefits of providing a service, it is not clear that the model offers a practicable approach to measuring outcomes. In fact, the emphasis on both effectiveness and efficiency suggests that costs of inputs are measured against outputs – which is not an inadequate measures of performance.[4]

While this method may be of interest to some voluntary organizations, it seems unduly complex for even large associations. To our knowledge, it has not yet been implemented in the Canadian voluntary sector.

SOCIAL AUDITING

Social auditing, historically and most recently, has been undertaken mainly by for-profit organizations — whose primary goal is something other than to provide broad social benefit — in order to measure the broad social benefit they provide. The origins of social auditing "know-how" in Canada comes from the co-operative sector, where a social role has always been recognized, but may not be the primary function of, say, a wheat pool or credit union. More recently, social audits have been carried out by for-profit corporations whose social benefit role is secondary at best. Earlier this decade, for example, social audits were carried out on an ice-cream manufacturer (Ben and Jerry's), a cosmetics company (The Body Shop), and a mining company in South Africa, among others.

What these exercises have in common is that they examine social impacts of an organization, going beyond its primary mission of making profits. Factors considered might include environmental practices, impacts of charitable activities, the volunteer contribution of employees in the broader community, and social benefits other than primarily economic activity.

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3 James Cutt, "Performance Measurement in Nonprofit Organizations: A Note on Integration and Focus Within Comprehensiveness", in *Performance and Accountability in Non-Profit Organizations: Concepts an Practice*, Victoria Papers in Public Policy No. 4, by Geoffrey Dinsdale, James Cutt and Victor Murray, Victoria, B.C.: Centre for Public Sector Studies, n.d., p. 36.

4 *Ibid*., p. 38.

The example most directly applicable to the voluntary sector was carried out by public libraries in the United Kingdom.[5] The primary function of libraries is to provide books, print materials and research resources in other media to a wide general public. However, this library system was interested in investigating its social impact in the community. Using qualitative research methods, the library association was able to find out more about its positive impacts beyond those originally intended, and to discern ways to enhance those extra benefits. Such an approach might be applicable to other non-profit and voluntary organizations that have a social interest beyond the particular interest or main constituency they are seeking to serve.

3. ETHICAL FUNDRAISING & FINANCIAL ACCOUNTABILITY CODE: CANADIAN CENTRE FOR PHILANTHROPY

(Reproduced with permission from the Canadian Centre for Philanthropy)

INTRODUCTION

This *Ethical Fundraising & Financial Accountability Code* is being developed by the Canadian Centre for Philanthropy, in consultation with charities and charity leaders throughout Canada. Its primary purpose is to assure donors of the integrity and accountability of the charities that solicit and receive their financial support.

Charities that adopt this *Ethical Fundraising & Financial Accountability Code* will be committing to fundraising practices that respect donors' rights to truthful information and to privacy. They will also be committing to responsible management of the funds that donors entrust to them, and to report their financial affairs accurately and completely.

It is proposed that the governing board of a charity adopt this *Ethical Fundraising & Financial Accountability Code* as organizational policy by passing the following motion as a formal resolution:

> "[Name of charity] hereby adopts the Canadian Centre for Philanthropy's *Ethical Fundraising and Financial Accountability Code* as its policy. In so doing, members of the governing board commit to being responsible custodians of donated funds, to exercise due care concerning the governance of fundraising and financial reporting, and to ensure to the best of their ability that the organization adheres to the provisions of the *Code*. It is hereby confirmed that each member of the governing board has received a copy of the *Ethical Fundraising & Financial Accountability Code* and that a copy will also be provided to each person who is subsequently elected to the governing board."

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5 A copy of the report of this social audit is available on the Internet at http://www.lahq.org.uk/nlw_pressi.htm.

It is proposed that a charity whose governing board adopts this *Ethical Fundraising & Financial Accountability Code* in its entirety be authorized by the Canadian Centre for Philanthropy for a period of two years from the date of adoption to state that it adheres to the Canadian Centre for Philanthropy's "*Ethical Fundraising and Financial Accountability Code*". Continued authorization beyond two years would require that the governing board re-adopt the *Code*.

This *Ethical Fundraising & Financial Accountability Code* complements the professional codes of ethics and standards of practice to which many fundraisers individually adhere (such as those of the National Society of Fund-Raising Executives, the Association for Healthcare Philanthropy, the Canadian Association of Gift Planners, and other national, provincial or sectoral organizations).

There are some forms of revenue-raising for which official receipts are not issued for income tax purposes (such as charitable gaming, product sales, some events organized to benefit a charity, etc). These activities may involve additional ethical considerations that are not addressed in this *Ethical Fundraising & Financial Accountability Code*.

Donors or prospective donors who have questions or concerns about fundraising activities should contact the charity on whose behalf the funds are being solicited. Charities that adopt the *Ethical Fundraising & Financial Accountability Code* are committed to deal with such queries promptly and fairly. The Charities Division of Revenue Canada also provides information and receives complaints about registered charities at 1-800-267-2384.

A. DONORS' RIGHTS

1. All donors (individuals, corporations, and foundations) are entitled to receive an official receipt for income tax purposes for the amount of the donation. Donors of non-monetary eligible gifts (or gifts-in-kind) are entitled to receive an official receipt that reflects the fair market value of the gift. (Note: "Eligible gifts" are defined in Revenue Canada Interpretation Bulletin IT-110R2 or its successor. Some common gifts, such as donations of volunteer time, services, food, inventory from a business, etc. are not eligible to receive official tax receipts.) The charity's governing board may establish a minimum amount for the automatic issuance of receipts, in which case smaller donations will be receipted only upon request.

2. All fundraising solicitations by or on behalf of the charity will disclose the charity's name and the purpose for which funds are requested. Printed solicitations (however transmitted) will also include its address or other contact information.

3. Donors and prospective donors are entitled to the following, promptly upon request:
   - the charity's most recent annual report and financial statements as approved by the governing board;

- the charity's registration number (BN) as assigned by Revenue Canada
- any information contained in the public portion of the charity's most recent Charity Information Return (form T3010) as submitted to Revenue Canada;
- a list of the names of the members of the charity's governing board; and
- a copy of this *Ethical Fundraising & Financial Accountability Code*.

4. Donors and prospective donors are entitled to know, upon request, whether an individual soliciting funds on behalf of the charity is a volunteer, an employee, or a hired solicitor.

5. Donors will be encouraged to seek independent advice if the charity has any reason to believe that a proposed gift might significantly affect the donor's financial position, taxable income, or relationship with other family members.

6. Donors' requests to remain anonymous will be respected

7. The privacy of donors will be respected. Any donor records that are maintained by the charity will be kept confidential to the greatest extent possible. Donors have the right to see their own donor record, and to challenge its accuracy.

8. If the charity exchanges, rents, or otherwise shares its fundraising list with other organizations, a donor's request to be excluded from the list will be honoured.

9. Donors and prospective donors will be treated with respect. Every effort will be made to honour their requests to:

   - limit the frequency of solicitations;
   - not be solicited by telephone or other technology;
   - receive printed material concerning the charity.

10. The charity will respond promptly to a complaint by a donor or prospective donor about any matter that is addressed in this *Ethical Fundraising & Financial Accountability Code*. A designated staff member or volunteer will attempt to satisfy the complainant's concerns in the first instance. A complainant who remains dissatisfied will be informed that he/she may appeal in writing to the charity's governing board or its designate, and will be advised in writing of the disposition of the appeal. A complainant who is still dissatisfied will be informed that he/she may notify the Canadian Centre for Philanthropy in writing.

B. FUNDRAISING PRACTICES

1. Fundraising solicitations on behalf of the charity will:
   - be truthful;
   - accurately describe the charity's activities and the intended use of donated funds; and
   - respect the dignity and privacy of those who benefit from the charity's activities.

2. Volunteers, employees and hired solicitors who solicit or receive funds on behalf of the charity shall:
   - adhere to the provisions of this *Ethical Fundraising & Financial Accountability Code*;
   - act with fairness, integrity, and in accordance with all applicable laws
   - adhere to the provisions of applicable professional codes of ethics, standards of practice, etc.
   - cease solicitation of a prospective donor who identifies the solicitation as harassment or undue pressure
   - disclose immediately to the charity any actual or apparent conflict of interest; and
   - not accept donations for purposes that are inconsistent with the charity's objects or mission.
3. Paid fundraisers, whether staff or consultants, will be compensated by a salary, retainer or fee, and will not be paid finders' fees, commissions or other payments based on either the number of gifts received or the value of funds raised. Compensation policies for fundraisers, including performance-based compensation practices (such as salary increases or bonuses) will be consistent with the charity's policies and practices that apply to non-fundraising personnel.
4. The charity will not sell its donor list. If applicable, any rental, exchange or other sharing of the charity's donor list will exclude the names of donors who have so requested (as provided in section A8, above). If a list of the charity's donors is exchanged, rented or otherwise shared with another organization, such sharing will be for a specified period of time and a specified purpose.
5. The charity's governing board will be informed at least annually of the number, type and disposition of complaints received from donors or prospective donors about matters that are addressed in this *Ethical Fundraising & Financial Accountability Code*.

C. FINANCIAL ACCOUNTABILITY

1. The charity's financial affairs will be conducted in a responsible manner, consistent with the ethical obligations of stewardship and the legal requirements of provincial and federal regulators.
2. All donations will be used to support the charity's objects, as registered with Revenue Canada.
3. All restricted or designated donations will be used for the purposes for which they are given. If necessary due to program or organizational changes, alternative uses will be discussed where possible with the donor or the donor's legal designate. If no agreement can be reached with the donor or his/her legal

designate about alternative uses for a restricted or designated donation, the charity will return the unexpended portion of the donation. If the donor is deceased or legally incompetent and the charity is unable to contact a legal designate, the donation will be used in a manner that is as consistent as possible with the donor's original intent.

4. Annual financial reports will:
   - be factual and accurate in all material respects;
   - disclose:
     - the total amount of fundraising revenues (receipted and non-receipted)[1]
     - the total amount of fundraising expenses (including salaries and overhead costs)[2]
     - the total amount of donations that are receipted for income tax purposes (excluding bequests, endowed donations that cannot be expended for at least 10 years, and gifts from other charities)[3]
     - the total amount of expenditures on charitable activities (including gifts to other charities)[4]
     - identify government grants and contributions separately from other donations; and
     - be prepared in accordance with generally accepted accounting principles and standards established by the Canadian Institute of Chartered Accountants, in all material respects.

5. No more will be spent on administration and fundraising than is required to ensure effective management and resource development. In any event, the charity will meet or exceed Revenue Canada's requirement for expenditures on charitable activities. (In general, section 149.1 of the Income tax Act requires all charities to spend at least 80 percent of their receipted donations (excluding bequests, endowed donations that cannot be expended for at least 10 years, and gifts from other charities) on charitable activities; in addition, charitable foundations are required every year to expend 4.5 percent of the value of their assets in support of charitable programs.)

6. The cost-effectiveness of the charity's fundraising program will be reviewed regularly by the governing board.

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1 Total of amounts from lines 100, 102 and 113 of T3010 (Revenue Canada's Registered Charity Information Return, 1998)

2 Amount from line 123 of T3010 (1998)

3 Amount from line 906 of T3010 (1998)

4 Total of amounts from line 120 and 121 of T3010 (1998)

APPENDIX III: BIOGRAPHICAL NOTES ON THE PANEL MEMBERS

THE HON. EDWARD BROADBENT, P.C., O.C., B.A., PhD.

Ed Broadbent was a Member of the Canadian House of Commons for 21 years, and served as Leader of the New Democratic Party (NDP) from 1975 to 1989. From 1990 to 1996, Mr. Broadbent was the first President of the International Centre for Human Rights and Democratic Development, situated in Montreal, Quebec. He then spent a year as Visiting Fellow at All Souls College, at Oxford University, in Great Britain. In September, 1997, he assumed the J.S. Woodsworth Chair, a two-year teaching and research position, at the Institute for the Humanities at Simon Fraser University.

Mr. Broadbent's education began at the University of Toronto where he received an undergraduate degree in philosophy. He pursued his post-graduate studies at the London School of Economics, and obtained his doctorate in political science from the University of Toronto. Prior to his election to Parliament, he taught at York University for a short period.

As a political and public policy leader and activist, Mr. Broadbent is well-known for his work for an equitable tax system, equality for women, and the constitutional entrenchment of Aboriginal rights. In his final speech in the House of Commons, in December, 1989, he moved a motion to commit the Government of Canada to the eradication of child poverty in Canada by the year 2,000 – his motion passed unanimously.

Mr. Broadbent has been equally active on the international stage. He was a Vice-President of Socialist International and, while with the International Centre for Human Rights and Democratic Development, he worked directly with those involved with the struggle for democracy in Haiti and Burma. In 1993, he was one of four international judges to sit on the Tribunal on Violations of Women's Human Rights at the United Nations Conference on Human Rights in Vienna. The next year he served as a member of the panel of experts on the International Tribunal on Rights in Haiti, and was subsequently named by President Aristide as the international advisor to Haiti's Truth and Justice Commission.

In 1982, Mr. Broadbent was made a member of the Privy Council of Canada. In 1993 he was appointed as an Officer of the Order of Canada

ROBERT DOUGLAS BROWN, B.Comm, M.A., F.C.A.

Chartered accountant, educator, tax specialist, consultant to government, committed volunteer and business leader – all of these titles aptly describe Robert ("Bob") Brown, who recently retired his position as Chairman and CEO of Price Waterhouse.

Mr. Brown's entire professional career has been with Price Waterhouse (now Price Waterhouse Coopers), one of Canada's most prestigious accounting and consulting firms. His appointment as Chair and CEO in 1990 culminated a diverse career involving work with some of Canada's largest corporations including major banks and resource, transportation, manufacturing and distribution companies. During assignments with these firms, Mr. Brown dealt with a broad range of investment, reorganization, governance, reporting, finance, international trade, and government relationship issues. Mr. Brown is most widely known as one of the country's preeminent tax specialists. He has repeatedly been asked by government to provide advice on tax matters ranging from the implementation of the GST to federal-provincial tax collection agreements. Corporate governance is another key theme in Mr. Brown's professional life. In 1993 and 1994 he was a member of the Toronto Stock Exchange Committee on Corporate governance and later authored articles on governance issues and executive compensation for both the C.D. Howe Institute and the Canadian Business Law Journal. He has also provided advice and counsel about taxation and governance matters to Canadian charities.

Mr. Brown is immediate past Chair of the C.D. Howe Institute and a past Chair of the Canadian Institute of Chartered Accountants (CICA). Until recently he also served as a member of the Business Council on National Issues (1990-96). He has also been a member of the Ontario Business Advisory Council (1990-96) and, in the mid-seventies he chaired a Task Force on Resources for the Canada West Foundation. In 1998, he began a two year appointment as the Clifford Clark Visiting Fellow at the federal Department of Finance.

As an active volunteer and fundraiser, Mr. Brown has also offered his insight and leadership to organizations such as the Royal Ontario Museum, the Toronto French School, the Council for Canadian Unity, the Ivey School of Business at Western University and the University of Toronto. He has taught courses and lectured broadly on taxation, fiscal and governance issues, and has written over 100 articles on these topics.

Mr. Brown holds a Bachelor of Commerce from the University of Toronto and a Masters in Economics from the University of Chicago.

DALE GODSOE, O.C., B.A., M.Ed., D.Hum.L.

Ms. Godsoe is currently the Vice-President (External) at Dalhousie University is Halifax, Nova Scotia.

She is currently Chair of the Board of the Canadian Centre for Philanthropy and also serves as a director on the boards of Calmeadow Inc., Calmeadow Nova Scotia, The Woman's Television Network Foundation, and the Canadian Council for International Peace and Security as the immediate past chair of that institute. Her private sector involvement includes directorship on the Maritime Tel and Tel Board where she chairs the Corporate Governance Committee, and on the boards of Viacom Canada and Halterm Limited.

Between 1987 and 1994 she chaired the Board of Governors of Mount Saint Vincent University and was a member of the Nova Scotia Council on Higher Education and The Maritime Provinces Higher Education Commission. In 1997, in recognition of her contribution to education in the province, Mount Saint Vincent accorded her and hounourary Doctor of Human Letters. From 1994 to 1996 Ms. Godsoe was national President of the YWCA of/du Canada whose board she served on for ten years. Ms. Godsoe was a Board member with the Halifax YWCA from 1979 to 1988, serving successive terms as Treasurer, Vice-President and President. In 1995 she was elected a Director of the World YWCA Executive and was the only Canadian on the 20 women governing council.

Ms. Godsoe previously served as a director of Hambros Canada, the Halifax Metro United Way, the Atlantic Film Festival and the Pier 21 Advisory Committee. As past Chair of the Metro United Way Campaign and Vice-Chair of the IWK-Grace health Centre Foundation, she supports her community through active philanthropy.

Ms. Godsoe holds a Bachelor of Arts degree, a Bachelor of Education degree and a Master of Education degree from Dalhousie University as well as an Honourary Doctorate in Human Letters from Mount Saint Vincent University. In 1999, she was appointed a member of the Order of Canada.

ANGELA KAN

Ms. Angela W.S. Kan was born and raised in Hong Kong. She received her higher education in Hong Kong and the U.S.A. in the field of Sociology. Before immigrating to Canada in 1975, Ms. Kan's research studies at the Chinese University of Hong Kong focused on housing and employment issues. She has also pursued studies in the fields of women in management and gerontology.

Once established in Vancouver, Ms. Kan became a community worker with the S.U.C.C.E.S.S. program, that city's largest social service agency serving Chinese Canadians in the Lower Mainland of British Columbia. In 1977 she assumed the role of Executive Director with that organization. She held that post until 1986 when she was appointed Citizenship Judge of the Court of Canadian Citizenship, a duty she fulfilled until 1994.

Ms. Kan worked briefly for the B.C. Ministry of Multiculturalism, Immigration and Human Rights until she assumed her current role as Executive Director for the Chinese Cultural Centre of Vancouver in 1995.

Ms. Kan has been an active volunteer within, and outside, the Chinese community in B.C. She is an honourary life member of S.U.C.C.E.S.S. and was honoured by the Rotary Club of Vancouver's Chinatown chapter with a Paul Harris Fellowship for outstanding community service in 1989. In 1992 she received a commemorative medal for the 125th Anniversary of the Canadian Confederation from the federal government. The next year she was a Volunteer Recognition Awards recipient at Volunteer Vancouver's

50th Anniversary celebration. Ms. Kan has also worked as a volunteer with a variety of local and national volunteer organizations ranging from the Boy Scouts and Girl Guides to the Heart and Stroke Foundation Multicultural Task Force.

She is currently a member of the Multicultural Service Committee of the Canadian Cancer Society and is the Vice-Chair of the B.C. Chinese Education Society. She also chairs the Chinese Canadian Association of Public Affairs and is a board member of the Law Court Education Society.

ARTHUR KROEGER, O.C.

Arthur Kroeger was born in rural Alberta in 1932. He was educated at the University of Alberta and attended Oxford University as a Rhodes Scholar from 1956 to 1958.

In 1958, Mr. Kroeger joined the Department of External Affairs as a Foreign Service Officer. He subsequently served in the Department of National Defence and with the Treasury Board Secretariat.

From 1975 until 1992, Mr. Kroeger served in six federal government departments as a Deputy Minister, including Transport, Energy Mines and Resources, and Employment and Immigration.

When he left government service in 1992, Mr. Kroeger became a Visiting Professor at the University of Toronto for the 1993-94 academic year. That same year he was installed as Chancellor at Carleton University and also became a Visiting Professor at Queen's University. During this busy period, he chaired the Public Policy Forum, an important policy think-tank supported by government, business and the Canadian labour movement.

Mr. Kroeger was appointed an Officer of the Order of Canada in 1989. He is also a recipient of the Public Service Outstanding Achievement Award (1989) and holds an Honourary Doctorate of Laws from the University of Western Ontario (1991) and the University of Calgary (1995).

THE HONOURABLE MONIQUE VÉZINA, P.C.

A mother of four, Monique Vézina worked tirelessly on behalf of several community-based organizations active in the field of education, women's rights and the family in her native Lower St. Lawrence before turning her attention to the national stage.

In 1976, she became the first woman to chair a regional Federation of the *Caisses Populaires Desjardins* and to be named as an executive member of the *Mouvement Desjardins*. From 1978 to 1982, she served as a member of the *Conseil supérieur de l'éducation* and as Vice-President of the *Régie de l'assurance automobile du Québec.*

In 1984, she was elected Member of Parliament for Rimouski-Témiscouata and appointed to the federal Cabinet as Minister for International Development and the Francophonie. She remained in Cabinet until her departure from politics in 1993, having held a number of portfolios including, Minister of State for Seniors, Minister of State for Employment and Immigration and Minister of State for Transport.

From 1994 to 1997 she served as a member of the Board of Directors of the *Centre d'éducation et de coopération internationale*, a Montréal-based international development agency. In 1995, Madame Vézina chaired the *Commission des aînés* and the *Commission nationale sur l'avenir du Québec*. She was elected *Patriote de l'année* by the Société Saint-Jean-Baptiste de Montréal in 1996 and shortly thereafter was named a member of *l'Ordre du mérite coopératif québécois*. Throughout this period, Madame Vézina continued to work on behalf of a number of charitable foundations and service organizations.

Madame Vézina currently serves as vice-president of the *Conseil des relations internationales de Montréal*, president of the *Mouvement national des Québécoises et Québécois* and of the *Conférence des peuples de langue française*. She remains active in the international development community.

SUSAN PHILLIPS, Ph.D.
RESEARCH DIRECTOR

Dr. Susan Phillips is Associate Professor of Public Administration, Carleton University, where she teaches courses in the voluntary sector, urban government, and policy analysis and research.

From 1993 to 1995, Dr. Phillips was editor of *How Ottawa Spends*, the annual review of federal government spending and public policy produced by Carleton's School of Public Administration. In 1997, she assumed a three year position as associate editor of the journal, *Canadian Public Policy.*

Dr. Phillips is well-known in Canada for her research on interest groups, citizen engagement and the voluntary sector. Her 1995 paper, "Redefining Government Relationships with the Voluntary Sector: On Great Expectations *and* Sense and Sensibility," commissioned by National Voluntary Organizations, circulated widely throughout the voluntary sector. She has recently completed a co-authored textbook on urban governance in Canada and co-edited a collection on Citizen Engagement in Local Government. Since 1993, Susan has jointly held two Social Science and Humanities Research Council (SSHRC) grants examining gender and restructuring in the federal public service. In 1997, she was awarded (as co-investigator) two grants from the Kahanoff Foundation Non-Profit Research Initiative to study accountability in the voluntary sector and to compare the emerging models of state-community relations in Ontario and Quebec. Her work was recognized by a University Research Achievement Award in 1999.

Dr. Phillips has acted as a policy advisor to the Toronto Transition Team, the Municipality of Metropolitan Toronto, the City of Ottawa and Human Resources Development Canada, among others.

HAVI ECHENBERG, M.P.A.

Havi Echenberg, the research associate to the Panel, is a doctoral candidate in Public Policy at Carleton University. A self-employed consultant since 1990, Ms. Echenberg graduated from Harvard University's Kennedy School of Government in 1992. She publishes *Social Policy Update*, a subscription-based newsletter, and is writing *The Women's Monitor*. Her most recent work and publications have focussed on the Canada Health and Social Transfer; disability, labour market, and income security issues; and social auditing. Clients have included federal government departments, local and national voluntary organizations, and public policy organizations across Canada. Her work has ranged from research and writing, to facilitating organizational development and board planning sessions, to conference participation and presentations.

GLOSSARY

Accountability: the requirement to explain and accept responsibility for carrying out an assigned mandate in light of agreed upon expectations. It involves: taking into consideration the public trust in the exercise of responsibilities; providing detailed information about how responsibilities have been carried out and what outcomes have been achieved; and accepting the responsibility for outcomes, including problems created or not corrected.

Accreditation: a process by which a national or other overarching body establishes criteria and standards; evaluates other organizations or individuals to determine whether the standards are being met; acknowledges those who meet these standards (by granting them membership, permission to operate or use such acknowledgment in advertising); reviews; and revokes acknowledgment for those who do not continue to meet the criteria and standards.

CCP: Canadian Centre for Philanthropy.

Capacity: the human and financial resources, technology, skills, knowledge and understanding required to permit organizations to do their work and fulfil what is expected of them by stakeholders.

Charitable purpose: there is no precise definition of charity. The concept of charity derives from an English law of 1601, called the Statute of Elizabeth, and from common law. The traditional categories of charity activity are: relief of poverty, advancement of education; advancement of religion; and purposes beneficial to the community.

Commercial Fundraiser: a for-profit company hired on contract by a voluntary organization to develop and manage a fundraising campaign and, on occasion, to collect the money raised.

Compliance audit: a review, normally conducted by an independent audit committee established by an organization's board of directors, that checks to ensure that the rules governing the organization are being followed. A compliance audit is usually done as part of the annual evaluation process.

Disbursement quota: the regulation administered by Revenue Canada that requires a registered charity to spend 80 percent of its annual receipted donations (donations for which tax receipts have been issued on its charitable purposes). This means that a registered charity can spend no more than 20 percent of its annual receipted revenues on administration, advocacy, fundraising or other non-charitable activities.

Due diligence defence: the demonstration that a board member or director has exercised reasonable and appropriate duties of care and loyalty in the discharge of his or her responsibilities for organizational governance. It is used in reference to a defence by a board member who would otherwise be liable for problems facing the organization.

Duty of care: the responsibility of a board member or director to exercise the care, diligence and skill of a reasonably prudent person in the oversight of any organization's governance.

Duty of loyalty: the responsibility of a board member or director to act honestly and in good faith in the best interests of the organization in the oversight of an organization's governance.

Form T3010: the annual reporting form that must be submitted to Revenue Canada by registered charities.

Fundraising: Solicitation of funds from individuals, outside of membership dues, and from corporations.

Governance: the overall processes and structures used to direct and manage an organization's operations and activities.

Income Tax Act: the federal law that determines, among other things, what tax benefits will be conferred on organizations that are registered charities. Any changes in such tax treatment are contained in amendments to this Act, as passed by the Parliament of Canada.

Intermediary associations: umbrella organizations whose primary purpose is to speak on behalf of and serve their member organizations, rather than deliver services directly to the public. These include both sector-wide organizations, such as the Canadian Centre for Philanthropy, National Voluntary Organizations and Volunteer Canada, as well as the national umbrella organizations in particular sub-sectors such as health, arts and culture, and family services.

Intermediate sanctions: refers to the potential penalties that Revenue Canada might impose for charities that do not comply with its regulations. At present, the only sanction is revocation of charitable status. An intermediate sanction would be a less severe penalty, such as a fine or publicity.

Nominating committee: a committee (ideally independent) of an organization's board of directors which is charged with responsibility for assessing the qualities of new board members desired, developing selection criteria and choosing suitable candidates.

Nonprofit organization: an organization that serves a public benefit, depends on volunteers at least for its governance, has limited direct control by governments, other than in relation to tax benefits, and is not profit making, thus eligible for exemption from paying income taxes. Athough the term, **nonprofit sector**, is an encompassing concept that includes registered charities as well as advocacy organizations, trade and professional associations and other nonprofits, we distinguish between nonprofit organizations and registered charities on the basis of their status under the federal *Income Tax Act*.

Organizational law: governs the legal forms of association available to an organization and its legal personality, rights and obligations.

Outcome-based performance assessment: measurement of the results of programs and activities. An *outcome* may be defined as the benefits or changes for participants during or after involvement in a program. This is distinct from program *outputs* that are the number of clients served or units of service provided.

Percentage-based Fundraising: a method of payment of a commerical fundraising business that conducts a fundraising campaign for an organization in which the business takes a fixed percentage of every dollar raised.

Political activity: under the rules administered by Revenue Canada, three categories of political activity are defined. The first is partisan activity: registered charities are prohibited from engaging in or donating to partisan activity. A second category involves discussions with governments about policy matters related to a charity purpose, where there is full and reasoned discussion about an issue, rather than an attempt to influence public opinion or change policy. These activities are not restricted. The third category consists of advocacy activities that are ancillary and incidental to an organization's charitable purpose and might include, for example, holding a workshop that is critical of government policy. Participation and spending on this category is limited annually to 10 percent of a charity's total resources.

Professional Fundraiser: an employee of a voluntary organization who conducts and manages fundraising activities on its behalf, and who is a member of one of the professional associations of fundraisers, thereby adhering to a professional code of conduct.

Registered charity: an organization that serves a charitable purpose, as defined under common law and its interpretations by Revenue Canada, that is recognized by Revenue Canada as such and is therefore able to issue receipts for donations that can be claimed as income tax credits by individual tax filers and as tax deductions by corporations. The legal framework for this tax treatment is contained in the *Income Tax Act*.

Social audit: a variety of methods that attempt to account for and assess the social results of public expenditures, in the case of governments, or the social results achieved by private corporations in the course of their doing business.

Stewardship: the active oversight of an organization's governance and mission by the board of directors.

Ten percent rule: the rule administered by Revenue Canada which stipulates that a registered charity can spend no more than 10 percent of all its resources – human, physical and financial (based on all revenues, not just receipted donations) – on "ancillary and incidental" political activities per year. This precludes any partisan activity and does not restrict participation consultations or discussions at the invitation of governments.

Transparency: the result of conducting one's activities in a manner that can be easily observed and understood.

Voluntary Organization: an organization whose work depends on serving a public benefit; on volunteers at least for its governance; on some financial support from individuals; and on limited direct influence by governments, other than in relation to any tax benefits accruing to the organization. We use the term to include both registered charities and public benefit organizations which at present do not quality for registration under the *Income Tax Act*; but we would exclude from the definition large institutions such as museums, universities and colleges and hospitals (even though they are registered charities) and nonprofit organizations which have corporate members and commercial-related interests (such as trade associations).

Voluntary Sector Roundtable (VSR): an unincorporated group of national organizations and coalitions that came together in 1995 to strengthen the voice of Canada's charitable voluntary sector. The members of the VSR are: Canadian Centre for Philanthropy, Canadian Conference of the Arts, Canadian Council for International Co-operation, Canadian Council on Social Development, Canadian Environmental Network, Canadian Parks/Recreation Association, Community Foundations of Canada, Representative for the faith communities, National Voluntary Health Agencies, National Voluntary Organizations, United Way of Canada-Centraide Canada, and Volunteer Canada.

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