Advancing Religion as a Charitable Object: Christian Service and Presentation of Biblical Perspectives in the Public Square as Integral Components of Evangelicals’ Expression of Faith

October 2008

Don Hutchinson
Vice-President, Centre for Faith and Public Life, General Legal Counsel

Faye Sonier
Associate Legal Counsel

The Evangelical Fellowship of Canada
1410-130 Albert Street
Ottawa, ON K1P 5G4
Phone (613) 233-9868 Fax (613) 233-0301 hutchd@efc-canada.com sonierf@efc-canada.com www.evangelicalfellowship.ca
# Table of Contents

1. Introduction .................................................................................................................. 3

2. Advancement of Religion............................................................................................. 4
   Advancement of Religion: Presumed Public Benefit......................................................... 4
   Presentation of Biblical Perspective on Contemporary Matters: Integral Component of Religious Expression.......................................................... 7
   Are such Communications and Presentations Advancing Religion?............................ 8
   Addressing Current Social and Moral Issues in Public Square...................................... 10
   Public Policy Doctrine................................................................................................... 11
   CRA Policies: “Applicants Assisting Ethnocultural Communities” and “Political Activities”..................................................................................... 12

3. What is “advancement of religion” in the 21st century?................................................. 13
   The Evolving Concepts of ‘Public Benefit’ and ‘Charitable’......................................... 14
   Religion Relevant and Important to Canadians............................................................ 17

4. Conclusion and Recommendations.............................................................................. 18
   Recommendations:.......................................................................................................... 19
   Recommendation #1:........................................................................................................ 19
   Recommendation #2:........................................................................................................ 19
   Recommendation #3:........................................................................................................ 19
   Recommendation #4:........................................................................................................ 19
   Recommendation #5......................................................................................................... 19

Sources................................................................................................................................. 20
   Articles & Texts:................................................................................................................ 20
   Case Law:.......................................................................................................................... 21
   Legislation:......................................................................................................................... 21

Schedule A: Evangelical Fellowship of Canada................................................................. 22
   Affiliate Denominations, Ministry Organizations and Educational Institutions............ 22
   Affiliate Denominations................................................................................................. 22
   Affiliate Ministry Organizations.................................................................................... 23
   Affiliate Educational Institutions.................................................................................. 25

Schedule B: Evangelical Fellowship of Canada’s Charitable Objects as approved by Canada Revenue Agency (Supplementary Letters Patent issued January 15, 2002)....26
1. Introduction

The Evangelical Fellowship of Canada (EFC) is the national association of evangelical Christians, gathered together for influence, impact and identity in ministry and public witness. Since 1964, the EFC has provided a national forum for Evangelicals and a constructive voice for biblical principles in life and society.

In addition to 41 evangelical denominational affiliates and 5 observing denominations, the EFC affiliates include 87 ministry organizations, 35 educational institutions and over 1,000 individual congregational affiliates, who uphold a common statement of faith. The EFC is an active participant in the World Evangelical Alliance – an organization of 128 national and seven regional alliances, with 104 associate members and 11 global partner international organizations.

The EFC assists various religious groups in gathering to work together through ministry partnerships. We engage in providing conferences and seminars that assist Christians in understanding the current times and various ways in which the Church is responding to continue advancing religion in Canada. We are also involved in public policy submissions and court interventions. These interventions and submissions are opportunities for Canadian Evangelicals to communicate and present an Evangelical understanding and religious beliefs on matters of social relevancy from a biblical perspective to government, government related bodies, the courts and public authorities. They provide opportunities for Evangelicals to promote their religion and their teachings on matters of contemporary concern and consideration in pragmatic and practical ways.

As a charitable organization which engages in various forms of religious expression and edification, in relationship with our many affiliates, we felt it prudent to provide a written submission on the matters being considered.

As discussed below, the definition of “advancement of religion” currently being used by the CRA is consistent with the general understanding of what “religion” means and with the expression of the courts on the issue. The EFC endorses continuing with such an appropriately broad definition.

Following the October 17, 2008 meeting where Don Hutchinson and Rick Hiemstra, along with other representatives of selected Christian charities, met with Jennifer Leddy and representatives of the Canada Revenue Agency (CRA) it was determined that this written presentation should focus on some of those aspects of religion and the advancement of religion that might fit into the category of being outside the general or traditional understanding of religion and religious expression but have been historically recognized as advancement of religion.

There is a long history of cooperation of church and government in many areas, including those of social justice and relief of poverty. Advancement of religion is more than sharing one’s faith for the purpose of educating or proselytizing or the act of worship in a congregational setting; it includes the ability to interrelate in the public square on religious freedom issues, religious principle based positions on public policy matters and other issues of concern to the Church.

The EFC is convinced that the CRA’s current, broad definition of “the advancement of religion” should remain so. The EFC is also convinced that it would be helpful for the
CRA guidelines to clearly state that Canadian law permits religious charities to undertake a number of activities, motivated by their religious convictions, beyond those that might be considered traditional religious expression, such as various forms of congregational worship, in order to serve their adherents and the community at large.

The CRA has accepted various forms of communications as charitable in the past and it is important that the CRA state clearly that these are recognized charitable activities which advance religion.

2. Advancement of Religion

As a charitable object, the advancement of religion has a presumed public benefit due to the moral, theological and ethical framework it has provided to the Western world, which has informed and inspired its moorings and traditions.

If the advancement of religion provides a public benefit in of itself due to its moral and ethical foundation, it should then be held and acknowledged that when religious charities serve the broader public as motivated by religious belief or present their concomitant religious understandings on matters of contemporary concern in the public square, these activities and purposes should be considered as aspects of the advancement of religion.

Advancement of Religion: Presumed Public Benefit

It is generally held that religion plays an important and largely positive role in society. As stated in the CRA’s Notes and Questions discussion paper, the advancement of religion as a charitable object is presumed to satisfy the public benefit requirement as it “helps to provide people with a moral and ethical framework for living and because it can play an important role in building social capital and social cohesion.”

The former Assistant Director of Communications of the Charities Directorate of the CRA, Carl Juneau, posed and answered a question on the place of religion in society:

Why is any bona fide religion charitable?

[...]

In essence, what makes religion “good” from a societal point of view is that it makes us want to become better – it makes people become better members of society.

Volunteerism and Charitable Giving

Evidence of the public benefit of religion is available and identifies that Christians, in particular, are more socially engaged than non-religious Canadians.

Statistics Canada, through polling, has demonstrated that Canadians who regularly attend church services volunteer more often and donate more money to both religious

---

1 Canada Revenue Agency, Notes and Questions for a Discussion on the Advancement of Religion as a Charitable Purpose, (October 10, 2008) at 10 [CRA, “Notes and Questions”].

Evangelical Christians represent a significant percentage of those religiously motivated individuals who attend weekly services participating in volunteer work and charitable giving.  

3 The survey reported that 19% of Canadians who attended religious services weekly provided 74% of all donations to religious organizations and 22% of all donations to non-religious organizations. It was also reported that those who attended weekly services were more likely to make donations than those who did not, and their annual average donations were larger. The role of religious belief clearly plays a role in whether a Canadian gives monies to charities, and how much they will give: “Canadians who are actively involved with their religion are more likely than others to be donors and to give more than other donors do. Not surprisingly, these individuals provide virtually all of the donations to religious organizations; however, they also make significant contributions to non-religious organizations.” This same survey revealed that almost 12 million Canadians, or 45% of the population over 15 years of age volunteered within the one-year period prior the survey. As with charitable giving, a core group of individuals provided for most hours volunteered. Specifically, 11% of Canadians accounted for 77% of all volunteer hours.

Again, an identifying characteristic of these volunteers, among others, was weekly religious service attendance. Canadians who attend weekly religious services are far more likely to volunteer their time than those who do not and volunteer more time altogether. This small group of volunteers completed 86% of all hours volunteered to religious organizations and 24% of all hours volunteered to non-religious organizations. Statistics Canada, Caring Canadians, Involved Canadians: Highlights from the Canada Survey of Giving, Volunteering and Participating by Michael Hall, David Lasby et al., Catalogue No. 71-542-XIE (Ottawa: Statistics Canada, 2004) at 7, 10, 31 and 37 [Statistics Canada, “Caring Canadians”].

4 Consistent weekly church attendance is a generally accepted distinction of Evangelical Christians. Whereas 48% Evangelicals attend church weekly, only 18% of Mainline protestants do so. Therefore, disproportionately, those who attend church weekly will be Evangelicals. N.B.: Bibby uses the term “Conservative Christian” synonymously with “Evangelical Christian”. In his later works, he uses the term “Evangelical Christian” exclusively. Reginald W. Bibby, Restless Gods (Toronto: Stoddart Publishing Co. Limited, 2002) at 75.

Since evangelicals are operationalized according to religious affiliation, many statistics do not take into account those who could be identified as evangelicals according to type in the mainline protestant denominations. Statistics Canada, 2001 Census: analysis series, Religions in Canada, Catalogue No. 96F0030XE2001015 (Ottawa: Ministry of Industry, 2003) [Statistics Canada, “2001 Census”].

While not all weekly attenders in the mainline denominations will be evangelicals, according to one poll, 59% of mainline protestants who attend church weekly were evangelically aligned. This suggests that roughly 2/3 of regular attenders at mainline protestant churches are evangelically aligned. Ipsos Reid and Christian Higher Education Canada, Christian Post-Secondary Education in Canada: Defining the Market (2007).

A 2001 Statistics Canada survey revealed that 84% of Canadians hold religious beliefs. Further, 76% of Canadians self-identify as being Christian (this includes those who are Roman Catholic, Protestant, Christian Orthodox, Apostolic, Born-again Christian and Evangelical). Of the remaining 24%, 16.2% declared themselves as being of “no religion”, and the rest are made up of Muslim, Jewish, Buddhist, Hindu and Sikh religions. 2001 Census.
For the Evangelical individually and the Christian charity, more specifically, the expression of faith is inextricably bound together: worship, service of the poor, proselytising, teaching. One manifestation of belief cannot be excised from another.

Evangelicals, like other Christians, are compelled by their beliefs to minister to the whole person, not simply the spiritual aspect of the individual – thus service includes feeding the hungry, clothing the poor, caring for the spiritual needs of the person – teaching and preaching. This holistic ministry rejects the notion that evangelism should focus solely on the conversion of the mind, as well as the notion that service and good works are sufficient.

The example followed is that of Christ, who ministered to the whole person; meeting spiritual, emotional and physical needs. Imitating the acts of Christ, who exemplified both charity and servitude, is not only a calling but also a clear act of worship.

Judicial Recognition

Members of the judiciary have also recognized that Canadian principles of freedom and human rights are based on moral and theological concepts, thus confirming a broader and perhaps less direct but significant contribution to Canadian society.

Justice Iacobucci of the Supreme Court of Canada stated in a lecture that “legal rights and freedoms cannot be properly understood without appreciating the existence of corresponding duties and responsibilities.” To comprehend such duties, rights and responsibilities, their understanding “rests on moral and theological principles which inform our Western political, religious and philosophical cultures and traditions.” He concluded that “without the values and principles which underlie... our democratic institutions and policy, there can be no recourse to rights or freedoms.”

Given that religion inspires individuals to give and serve voluntarily society’s most needy and that religious mores and principles are fundamental to western concepts of rights and freedoms, the advancement of religion in this less noticeable or traditionally considered concept of religious expression evidences a corresponding public benefit.

Therefore of those who are religious and attend church services, an overwhelming number of those are Christian (90.5%), and it can be extrapolated that this small number of Canadians who give of their time and money are of the Christian faith, and a significant percentage of those being Evangelicals.

5 Christ, early in his public ministry quoted the prophet Isaiah, “The Spirit of the Lord is upon me, because he has anointed me to bring good news to the poor. He has sent me to proclaim the release to the captives and recovery of sight to the blind, to let the oppressed go free, to proclaim the year of the Lord’s favour. Bible, Luke, 4:18 (NIV).

6 “Therefore, I urge you, brothers, in view of God’s mercy, to offer your bodies as living sacrifices, holy and pleasing to God – this is your spiritual act of worship... Just as each of us has one body with many members, and these members do not all have the same function, so in Christ we who are many form one body, and each member belongs to all the others. We have different gifts, according to the grace given us... If it is giving to the poor, let him give generously... If it is teaching, let him teach... If it is encouraging, let him encourage... If it is giving to the needs of others, let him give...” Bible, Romans 12 (in part) [emphasis added]

It holds therefore that if religion is generally perceived and understood as having a positive influence on society due largely in part to the fact that it has provided the “moral and theological principles which inform our Western…cultures” and has inspired our constitutional rights and freedoms, it lends itself to recognizing that communication and presentation of biblical perspectives in the contemporary public square ought to be included in the concept of advancement of religion.

**Presentation of Biblical Perspective on Contemporary Matters: Integral Component of Religious Expression**

In its *Notes and Question* discussion paper dated October 10, 2008, the CRA provided a list of examples of activities which advance religion. Not dissimilar to the activities of preaching, proselytising and the production of religious media, the communication of biblical perspectives on matters of public policy or concern ought to be considered activity which clearly falls within the “advancement of religion” object.

Further, we hold that such presentations of biblical perspective to the general public, the government and the judiciary are distinct from lobby work. Lobbying is defined in the *Lobbying Act* as

Communicating, any oral or arranged communications (excluding e-mail, letter and fax communications), with a designated public officer holder with respect to the following matters:

- The development of a legislative proposal;
- The introduction or amendment of a Bill or resolution;
- Making or amending any regulation, policy or program; or
- The awarding of a tax credit or any other financial benefit; or
- The awarding of a non-peer review grant or contribution by the federal government.\(^8\)

Submissions made by religious charities to government and/or as part of legal interventions are distinct for the following reasons:

- Communications are most often made in an open forum before parliamentary or legislative committees, the court or other groups where the charity has developed a niche expertise based on its religious principles and wishes to offer perspective and recommendations to the government or the court;
- Presentations are often solicited from government or para-government groups based on the charity’s recognized expertise to assist in the policy development process;
- Communications and submissions are part of the faith expression of the charities where they share their religiously based worldview, beliefs and perspective with the public and policy makers.

• Public communications and submissions are seen by many individuals within various religious groups as compulsory – a need to share the gospel and the Christian message on contemporary matters.

Lastly, this activity of public awareness and communication is not of a political nature and any charities participating in political activities should respect the existing restrictions on limited political activity.9

**Are such Communications and Presentations Advancing Religion?**

The courts have stated that in order for the “advancement of religion” to qualify as charitable, “faith in a god and worship of that god” must be demonstrated.10 Further, the court must be able to determine which religion the organization is advancing and the means by which it is doing it.11

The Courts have also generally held that any charitable purpose which advances a religion is charitable in nature so long as it is not unlawful.12 The courts have been reluctant to distinguish between religions, and have respected sincerely held beliefs whether or not they are part of the mainstream or fringe of a particular religion.13 According to the Courts,

> [t]he law must accept the position that it is right that different religions should each be supported irrespective of whether or not all of its beliefs are true. A religion can be regarded as beneficial without it being necessary to assume that all its beliefs are true, and a religious service can be regarded as beneficial to all those who attend it without it being necessary to determine the spiritual efficacy of that service or to accept any particular belief about it.14 [emphasis added]

Stemming from the Amselem decision and section 2(a) of the Charter of Rights and Freedoms, the courts have stated that the state is not the arbiter of religious doctrine.15 The courts have long held that “any religion is at least likely to be better than none” and that the promotion of religion is good for society.16

---

As mentioned above, in order to establish if an activity is charitable or not must be determined by examining the activity’s purpose.\textsuperscript{17} Cullity J. stated that,

\textit{[t]he distinction between ends and means is fundamental in the law of charity...A further question is necessary: are the activities to be construed as ends in themselves or are they really means to some other end? Only when that question is answered can the charitable or non-charitable nature of the body or trust be determined.}\textsuperscript{18}

The Courts have also discussed the specific meaning of advancing religion as an object.

At first instance, in the \textit{Keren Kayemeth} decision, Rowlatt, J. discussed the meaning of the ‘advancement’ of religion and stated the following:

It seems to me that the promotion of religion means the promotion of the spiritual teaching of the religious body concerned and the maintenance of the spirit of the doctrines and observances upon which it rests or in which it finds expression, if one likes to put it in that way, or at any rate with which it is bound up. But if a religion enjoins the pursuit of some ulterior aim in itself secular so that other people not of that religion might, for either reasons of private sentiment or views of public policy, or what not, support the same aim, then it seems to me that the pursuit of that aim, the promotion or achievement of that aim, is not the promotion of religion for this purpose.\textsuperscript{19}

At the appeal of that decision, Lord Hanworth confirmed the lower court’s position on the matter:

…as to religion, I agree with the observations of Mr. Justice Rowlatt on that head. The promotion of religion means the promotion of spiritual teachings in a wide sense, and the maintenance of the doctrines on which it rests and the observances that serve to promote and manifest it- not merely a foundation or cause to which it can be related.\textsuperscript{20}

As summarized by the CRA, this decision establishes that “it is not enough to simply relate a religion to a cause that is not obviously religious”.\textsuperscript{21} The issue is motive. It is not sufficient to disqualify an activity as being not charitable simply because others may hold a similar position who are not religiously motivated. Key is whether it can be demonstrated that the religious beliefs posited for the activity being taken are sincerely held and have a nexus to the action – to tie together the principles enunciated in \textit{Keren}

\textsuperscript{17} \textit{Vancouver Society of Immigrant and Minority Women v. Canada (Minister of National Revenue)}, [1999] 1 S.C.R. 10. at para 146 ["\textit{Vancouver Society}"].
\textsuperscript{19} \textit{Keren Kayemeth Le Jisroel v. IRC}, [1931] 2 KB 465.
\textsuperscript{21} CRA, “Notes and Questions”, supra note 1 at 6.
Kayemeth with the the Supreme Court of Canada’s decision as enunciated by Mr. Justice Iacobucci in *Amselem*:

… freedom of religion consists of the freedom to undertake practices and harbour beliefs, having a nexus with religion, in which an individual demonstrates he or she sincerely believes or is sincerely undertaking in order to connect with the divine or as a function of his or her spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials.  

… In my view, the State is in no position to be, nor should it become, the arbiter of religious dogma. Accordingly, courts should avoid judicially interpreting and thus determining, either explicitly or implicitly, the content of a subjective understanding of religious requirement, “obligation”, precept, “commandment”, custom or ritual.  

In the *United Grand Lodge* case, Donavan J. stated that advancement of religion was:

…to promote it, *to spread the message ever wider among mankind*, to take some positive steps to sustain and increase religious belief and these things are done in a variety of ways which may be comprehensively described as *pastoral and missionary*. There is nothing comparable to that in masonry….There is no religious instruction, no programme for the persuasion of unbelievers, no religious supervision to see its members remain active and constant in the various religions they claim to profess, no holding of religious services, no pastoral or missionary work of any kind. [emphasis added]

This case leaves open the door to the possibility of spreading not only a group’s “saving” or “gospel” religious message, but also their religious perspective on current events and policy issues. The communications are a manifestation of religious belief, as is required by some faith systems. In addition to being a means of persuading unbelievers of the veracity and cohesive nature of their system of faith, such communications also convey a message that the faith beliefs of the religious group are of value to the general public, as are the policy positions derived from those beliefs.

**Addressing Current Social and Moral Issues in Public Square**

Courts have recognized that advancing religion as a charitable object can include activities that are not overtly spiritual in and of themselves, which serve to promote religious beliefs and doctrine upon which the religious charity is founded. The courts

---

22 *Amselem, supra note* 15 at para 46.  
have thus recognized the practical outworking of religious beliefs, including the positioning of the charity or the church on social and moral issues as charitable.\(^{24}\)

This principle was followed in the following decisions:

- In *Re Scowcroft, [1989] 2 Ch. 638*, the court found that a reading room that was gifted “to be maintained for the furtherance of Conservative principles and religious and mental improvement” would be considered a charitable activity even though it wasn’t of itself charitable but because its larger purpose was to advance religion.
- In *Re Hood, [1931] 1 Ch. 240*, a gift made to a charity to advance Christianity by encouraging the cession of alcohol consumption was deemed charitable as it was made for the purpose of advancing religion. The Court stated that the “…[essential] part of the will is that part which deals with the application of Christian principles to all human relationships. I cannot bring myself to doubt that a gift for the spreading of Christian principles is a good charitable gift” and the “question relating to the drink traffic being only subsidiary to the main question of the spreading of Christian principles.”
- In *National Anti-Vivisection Society*, the Court found that the promotion of legislation was ancillary to the charity’s object.\(^{25}\)

Hubert Picarda in his *Law and Practice Relating to Charities* text, states clearly that

\[
\text{[w]here an authorized activity is in fact a means to an end (and not an end in itself), the fact that it is not on its own a charitable activity is irrelevant provided in the end is charitable … If non-charitable activities or benefits do not represent a collateral or independent purpose, but are incidental to and consequent upon the way in which the charitable purpose of the body in question is carried on the body is charitable.}\]^{26}

**Public Policy Doctrine**

The public benefit test has an inherent public policy concern which sets out that charities’ objects and activities must be for public benefit and must not be contrary to public policy.

The American ‘public policy doctrine’ was applied in the *Bob Jones University* decision where the court upheld the IRS’ decision to revoke the establishment’s charitable status due to its discriminatory policies. The court stated that a charity must be able to demonstrate that its objects “demonstrably serve and [are] in harmony with the public interest” and are a “beneficial and stabilizing influence in community life”. This harmony is unlikely if a charity is engaging in illegal activities or if its activities are in some way contrary to public policy. The court however cautiously stated that a “declaration that a


\(^{25}\) Ibid., as compiled by Carters.

given institution is not ‘charitable’ should be made only where there can be no doubt that the activity involved is contrary to a fundamental public policy.”

The doctrine was applied in a 1990 Ontario Court of Appeal decision where the court found that a trust which was discriminated restricted to white, protestant British subjects was contrary to public policy and thus void. The court also cautiously offered a warning that “public policy is an unruly horse” and thus it “should be invoked only in clear cases, in which harm to the public is substantially incontestable, and does not depend on the idiosyncratic inferences of a few judicial minds.”

During the process of legalizing same-sex marriage, Canadian religious charities were concerned that they would have their status revoked for speaking out against it or for internal policies which may discriminate against same-sex couples. The *Civil Marriage Act* was amended to address that concern:

> For greater certainty…a registered charity with stated purposes that include the advancement of religion shall not have its registration revoked or be subject to any other penalty under Part V solely because it or any of its members, officials, supporters or adherents exercises, in relation to marriage between persons of the same sex, the freedom of conscience and religion guaranteed under the *Canadian Charter of Rights and Freedoms.*

This demonstrates that both government and the judiciary have communicated that charities and their members may express themselves and manifest their faith on issues relevant to their faith community.

**CRA Policies: “Applicants Assisting Ethnocultural Communities” and “Political Activities”**

As demonstrated above, religious expression on ethical and moral societal concerns (public policy) are an expression of religious belief and an opportunity for various religious groups to share their interpretation of religious truths with the community.

We comment in passing that an early draft of CRA policy CPS-023 (no longer available on the CRA website) caused great concern by referencing that CRA would be making the assessment of whether an organization’s purposes were “more secular than theological” if the organization engaged in opposition to abortion or same-sex marriage. Regulation of abortion is an issue which the Supreme Court of Canada has stated clearly is a public policy decision to be made by Parliament and provincial legislatures within their spheres of jurisdiction. The same-sex marriage issue is also one where the final decision was found by the Supreme Court of Canada to be one that resided with the public policy determination of Parliament. These are both issues on which many religious communities have positions based on their sacred texts and religious teachings.

---

29 *Civil Marriage Act*, 2005 c. 33 at section 6.2.1.
The CPS-023 proposal was in direct contradiction to CRA policy CPS-022’s reference to the Accord Between the Government of Canada and the Voluntary Sector that was signed in 2001. The Accord states that,

The Government of Canada recognizes the need to engage the voluntary sector in open, informed and sustained dialogue in order that the sector may contribute its experience, expertise, knowledge and ideas in developing better public policies and in the design and delivery of programs.\(^{30}\)

In reference to the Accord, CPS-022 states:

The Accord recognizes that Canadian society has been enriched by the invaluable contribution charities have made in developing social capital and social cohesion. By working with communities at the grassroots level, charities are trusted by and understand the needs of the people they serve. This is important work that engages individuals and communities in shaping and creating a more inclusive society.

Through their dedicated delivery of essential programs, many charities have acquired a wealth of knowledge about how government policies affect people’s lives. Charities are well placed to study, assess, and comment on those government policies. Canadians benefit from the efforts of charities and the practical, innovative ways they use to resolve complex issues related to delivering social services. Beyond service delivery, their expertise is also a vital source of information for governments to help guide policy decisions. It is therefore essential that charities continue to offer their direct knowledge of social issues to public policy debates.\(^{31}\) [emphasis added]

The removal of the earlier draft of CPS-023 was the right result as the draft was not consistent with the law or with the broader societal understanding set out in the Accord.

3. What is “advancement of religion” in the 21st century?

As discussed below, various terms relating to charity law have been redefined and have evolved over the years. The courts however state that terms defining charitable concepts must be considerate of societal trends and opinion. As demonstrated below, religion


continues to hold an important place in the lives of the vast majority of Canadians and the definition of “advancement of religion” should remain broad.

The Evolving Concepts of ‘Public Benefit’ and ‘Charitable’

The courts established that the concept of ‘public benefit’ is not a static one, but a concept which will evolve and change as does the public opinion of what is a public benefit:

It will depend upon the social conditions at the time of the assessment. What once was considered to be a public benefit may, in the 21st century, no longer be seen as such. As with the overall judicial approach to the term “charitable”, the interpretation of “public benefit” evolves to accommodate change in society and the needs of society. 32

As stated by Bourgeois, “charitable” is a concept which also evolves with public opinion. In National Anti-Vivisection, Lord Simonds stated:

A purpose regarded in one age as charitable may in another be regarded differently...A bequest in the will of a testator dying in 1700 might be held valid upon the evidence then before the court, but, upon difference evidence, held invalid if he died in 1900. So, too, I conceive that an anti-vivisection society might at different times be differently regarded. But this is not to say that a charitable trust, when it has once been established, can ever fail. If, by a change in social habits and needs, or, it may be, by a change in the law, the purpose of an established charity becomes superfluous or even illegal, or if, with increasing knowledge, it appears that a purpose once thought beneficial is truly detrimental to the community, it is the duty of the trustees of an established charity to apply to the court... and ask that a cy-près scheme be established...A charity once established does not die, though its nature may be changed. But it is wholly consistent with this that in a later age the court should decline to regard as charitable a purpose, to which in an earlier age that quality would have been ascribed...I cannot share the apprehension of Lord Greene, M.R., that great confusion will be caused if the court declines to be bound by the beliefs and knowledge of a past age in considering whether a particular purpose is today for the benefit of the community, but, if it is so, then I say that it is the lesser of two evils. 33 [emphasis added]

32 Bourgeois, “Law”, supra note 11 at 16; Gilmour, supra note 14 at 453.
33 National Anti-Vivisection, supra note 12 at 238.
In Vancouver Society, the court had the task of interpreting the charitable concept of “advancement of education” for modern times. The Society had applied for charitable status and had been refused by the Minister of National Revenue on the grounds that not all of their proposed activities were sufficiently connected to that purpose in order to be considered charitable.

The Society argued that it provided a public benefit as it offered services and workshops which would “advance education”. Its activities included “career and vocational counselling service”, and assistance with preparation of resumes and development of interview skills.

The case attracted attention to the issue of reform of Canada’s charitable laws as the Society spent its efforts on raising arguments that such a reform was necessary, rather than on finding case law which would support arguments that their activities were wholly charitable. Many intervenors presented arguments before the Supreme Court stating it was time to have the laws of charities revised. The Supreme Court stated this difficulty several times throughout its decision:

Although the Pemsel approach has been applied countless times by Canadian courts, both prior and subsequent to Guaranty Trust, its application to the myriad of modern organizations vying to be identified as charitable has often proved a daunting task. There have been repeated calls for the expansion or replacement of the test to reflect more completely the standards and values of modern Canadian society. As Strayer J.A. recently observed in Human Life International in Canada Inc. v. M.N.R., [1998] 3 F.C. 202 (C.A.), at para. 8, the definition of charity “remains ... an area crying out for clarification through Canadian legislation for the guidance of taxpayers, administrators, and the courts”.

In the absence of legislative reform, Canadian courts must contend with the difficulty of articulating how the law of charities is to keep “moving” in a manner that is consistent with the nature of the common law. As this Court held in R. v. Salituro, [1991] 3 S.C.R. 654, at p. 670:

Judges can and should adapt the common law to reflect the changing social, moral and economic fabric of the country. Judges should not be quick to perpetuate rules whose social foundation has long since disappeared. Nonetheless, there are significant constraints on the power of the judiciary to change the law. As McLachlin J. indicated in Watkins, supra, in a constitutional democracy such as ours it is the legislature and not the courts which has the major responsibility for law reform; and for any changes to the law which may have complex

34 Vancouver Society, supra note 17 at para 80.
ramifications, however necessary or desirable such changes may be, they should be left to the legislature. The judiciary should confine itself to those incremental changes which are necessary to keep the common law in step with the dynamic and evolving fabric of our society.

There are thus limits to the law reform that may be undertaken by the judiciary.\textsuperscript{35} [emphasis added]

The Society lost at both the Federal Court and the Supreme Court and Supreme Court was split 4 to 3.

Following an analysis of the common law definitions of “charity” and “charitable activity”, and in concluding for the majority, Iacobucci J. stated:

In the absence of legislative reform providing guidelines, the best way in which to discern the charitable quality of an organization’s purposes is to continue to proceed by way of analogy to those purposes already found to be charitable by the common law, and conveniently classified in \textit{Pemsel}, subject always to the general requirement of providing a benefit to the community, and with an eye to society’s current social, more, and economic context.\textsuperscript{36} [emphasis added]

However, Justice Gonthier, in his dissent stated that the courts have had always had the role of modernizing the definition of “charity”:

The Society and the interveners invited this Court to modify the existing categorization of charitable purposes set out in \textit{Pemsel} in favour of a broader test. Given my view that the existing \textit{Pemsel} classification scheme is sufficiently flexible to comprehend the Society’s claim, and my view that the Society’s purpose is charitable within that framework, we need not engage in such an exercise on the facts of this appeal. This is not to suggest that the courts are precluded from recognizing new charitable purposes, or indeed, from revisiting the \textit{Pemsel} classification itself should an appropriate case come before us. The task of modernizing the definition of charity has always fallen to the courts. There is no indication that Parliament has expressed dissatisfaction with this state of affairs, and it is plain that had Parliament wanted to develop a statutory definition of charity, it could have done so. It has not. This leads me to the conclusion that Parliament continues to

\textsuperscript{35} \textit{Ibid.}, paras 149-150.
\textsuperscript{36} \textit{Ibid.}, para 159.
favour judicial development of the law of charity.\textsuperscript{37} [emphasis added]

Thus the Courts have restrained themselves from making changes to key charitable law definitions, other than those determined to be necessary “incremental changes”. Also, the courts have stated that what is considered as charitable or a public benefit will depend on public opinion and current social conditions.

Do Canadians value religion? How much freedom should religious charities be given when exercising their beliefs and mandates?

**Religion Relevant and Important to Canadians**

Religion is not an aspect of our culture “that has long since disappeared”, as suggested in the *Salituro* decision above. It continues to be an aspect of Canadians’ lives which is relevant and important.

In a 2000 survey, 76\% of respondents stated that religious groups have a role to play in Canadian lives.\textsuperscript{38} A significant number of Canadians, 43\%, states that religious groups should address all aspects of life, 17\% of Canadians states that religious groups should only address spiritual issues, 9\% stated that they should only address spiritual and personal matters and 7\% stated they should only be addressing spiritual and social concerns.\textsuperscript{39}

In fact, 44\% of Canadians “place a high degree of importance on religion in their life.” Nearly half of Canadians who do not regularly attend religious services, but engage in religious activities on their own time at least once a month, “place a high degree of importance on their religion”. Warren Clark and Grant Schellenberg, senior analysts at Statistics Canada, thus conclude that “this suggests that more Canadian adults attach a high degree of importance to religion than attendance figures would indicate.”\textsuperscript{40}

Studies have also shown that three in four adults and two in four teens state that they have spiritual needs, and these needs “very often do not have their origins in exposure to churches.”\textsuperscript{41}

A majority of Canadians self-identify as having ties to religious groups. The 2001 Census found that 84\% of Canadians have religious affiliations, with 77\% self-identifying as Christian, 2\% as Muslim, and 1\% each as Jewish, Hindu, Buddhist and Sikh.\textsuperscript{42}

Further, recent studies have shown that religious church attendance is increasing in Canada for the first time in 20 years. One author has stated that “we may be seeing the early signs of a renaissance of religion in Canada”. For example, regular weekly church attendance for teens in 1984 was at 23\%, which dropped off to 18\% in 1992. However, by 2002, the attendance rates returned to nearly the figure of 1984, at 22\%.\textsuperscript{43}

\textsuperscript{37} *Ibid.* , para 122.
\textsuperscript{38} Reginald Bibby, *Restless Churches*, (Toronto: Novalis/Saint Paul University, 2004) at p. 184-5 [Bibby, “*Churches*”].
\textsuperscript{39} Ibid., at p. 187.
\textsuperscript{41} Bibby, “Churches”, supra note 37 at 17.
\textsuperscript{43} Bibby, “Churches”, supra note 37 at 18.
This study was also confirmed by a 2004 Gallup poll which also showed a return to church attendance for Canadians. Gallup's poll showed that 37% of Canadians attended religious services at least once a month, whereas in 2000, 30% of Canadians attended church on the same monthly basis.\footnote{University of Lethbridge, News Release, "New Gallup Poll Show Religious Attendance on Upswing", (November 25, 2004).}

The CRA's policy on "advancement of religion" should be reflective of the high degree of importance most Canadians place on religious and spiritual matters in their lives.

4. Conclusion and Recommendations

The Ontario Law Reform Commission ("OLRC") has stated that "religious purposes should be given a wide meaning in order to avoid conflicts between the judicial and public view and to reflect the evolving nature of religion."\footnote{Ontario Law Reform Commission, \textit{Report on the Law of Charities}, (Toronto, 1996).}

\textit{Comment on faith for evangelicals in particular:}

"One man considers one day more sacred than another; another man considers every day alike." (Romans 14:5).

\textit{Avodah} is a Hebrew noun used in the Bible that has two distinct yet intertwined meanings: worship and work. It is also derived from the Hebrew verb \textit{L'Avod} which has two meanings; to work and also to worship. The dual meaning offers powerful wisdom for modern times for how we are to view our work lives.

Life cannot be bifurcated; the integration of faith into everyday living is essential to the evangelical Christian. Evangelicals, like many other committed Christians, endeavour to live their lives with an integrated Christian worldview.

All activity, if done with integrity and unto God, is a form of worship in this context. There has never been a concept of segmenting our worship, work, service or other aspects of life from our faith life as founded in personal relationship with Jesus Christ and the written Word of God in the Bible. It is in the realm of the sacred to bring God into our everyday life.

God calls us to do all as an act of worship to Him.

The same is true for evangelical Christian charitable organizations. Serving the poor and others in need of His care through our actions are not only acts of service, but also acts of worship.\footnote{Bible, Matthew 25:31-47.} Christian charities, genuinely motivated by biblical beliefs, do not compartmentalize activities into one category or another.

As an example of this understanding, we append both a list of the evangelical Christian ministries that are affiliated with the EFC and the charitable objects of the EFC that have been an impetus to their affiliation.
Recommendations:
We therefore recommend the following:

Recommendation #1:
That in establishing guidelines for the definition of advancement of religion the CRA should maintain a broad definition, following the court’s statements on the matter, and ensure that the considerations given to the advancement of religion are all encompassing so as to include a diversity of religious expression and manifestation.

Recommendation #2:
The guidelines clearly set out that the object of advancement of religion includes communications, presentations and submission on issues relevant to the Canadian public in the public square that are founded in religious belief.

Recommendation #3:
The guidelines clearly set out that the object of advancement of religion includes what some might consider non-traditional or unconventional activities which permit the charity to serve their adherents and the community at large.

Recommendation #4:
The guidelines clearly set out that, consistent with *Amselem* and *Thornton*, the state is not in a position to determine whether an activity has a secular purpose if a religious charity is undertaking it and there is a demonstrable nexus to a sincerely held religious belief that compels the addressing of the issue.

Recommendation #5
The guidelines set out that a religious charitable activity will not be disqualified from being charitable because others may hold a similar position who are not religiously motivated. Consistent with *Keren Kayemeth* and *Amselem*, the activity will be considered charitable if it can be demonstrated that the religious beliefs posited for the action being taken are sincerely held and have a nexus to the activity.
Sources

Articles & Texts:
Bibby, Reginald W., Restless Churches, (Toronto: Novalis/Saint Paul University, 2004).


Canada Revenue Agency, Notes and Questions for a Discussion on the Advancement of Religion as a Charitable Purpose, (October 10, 2008).


Picarda, Hubert, Law and Practice Relating to Charities, 3rd ed. (Toronto, Butterworths, 1999).


University of Guelph, Federal Lobbying Act & Registry of Lobbyist, online: University of Guelph <http://www.uoguelph.ca/secretariat/lobbying.php>.


**Case Law:**


*Re South Place Ethical Society* (also referred to as *Barralet et al. v. A.G.*), [1980] 3 All E.R. 918.


**Legislation:**


*Civil Marriage Act*, 2005 c. 33.


Schedule A: Evangelical Fellowship of Canada
Affiliate Denominations, Ministry Organizations and Educational Institutions

Affiliate Denominations

1. Anglican Network in Canada
2. Apostolic Church of Pentecost of Canada Inc.
3. Associated Gospel Churches
4. Baptist Convention of Ontario & Quebec
5. Baptist General Conference of Canada
6. Baptist Union of Western Canada
7. Canadian Conference of the Brethren in Christ Church
8. Canadian Conference of Mennonite Brethren Churches
9. Canadian Fellowship of Churches & Ministers
10. Canadian National Baptist Convention
11. Christian Reformed Church in North America
12. Church of God in Canada (Anderson)
13. Church of God in Canada (Cleveland)
14. Church of the Nazarene Canada
15. Congregational Christian Churches in Canada
16. Convention of Atlantic Baptist Churches
17. Evangelical Covenant Church of Canada
18. Evangelical Free Church of Canada
19. Evangelical Mennonite Conference
20. Evangelical Mennonite Mission Conference, Canada
21. Fellowship of Christian Assemblies of Canada
22. Fellowship of Evangelical Bible Churches
23. Foursquare Gospel Church of Canada
24. Mennonite Church Canada
25. North American Baptist Conference--Canada
26. Regional Synod of Canada Inc., Reformed Church in America [alternate website]
27. The Anglican Catholic Church of Canada
28. The Christian & Missionary Alliance in Canada
29. The Evangelical Christian Church in Canada
30. The Evangelical Missionary Church of Canada
31. The Fellowship of Evangelical Baptist Churches in Canada
32. The Free Methodist Church in Canada
33. The Pentecostal Assemblies of Canada
34. The Pentecostal Assemblies of Newfoundland
35. The Salvation Army
36. The Wesleyan Church of Canada [alternate website]
37. United Brethren Church in Canada
38. Union d'Eglises Baptistes Francaises
39. Vineyard Resource Canada
40. Vision Ministries Canada
41. Worldwide Church of God, Canada
Observers:

1. Canadian Baptist Ministries
2. Lutheran Church – Canada
3. The Anglican Church of Canada
4. The Canadian Council of Churches
5. The Presbyterian Church in Canada

Affiliate Ministry Organizations

1. A Rocha Canada
2. African Enterprise (Canada)
3. Aglow International of Canada
4. Arab World Ministries
5. Arrow Leadership Ministries
6. Arthur Zeilstra Ministries Inc.
7. Association of Chinese Evangelical Ministries
8. Awana Clubs Canada
9. Back to the Bible Canada
10. Billy Graham Evangelistic Association, Canada
11. Bridgeway Foundation
12. Bus Stop Bible Studies
13. Canadian Bible Society
14. Canadian Council of Christian Charities
15. Canadian National Christian Foundation
16. Christar
17. Christian Association of Pregnancy Support Services
18. Christian Business Ministries Canada
19. Christian Horizons
20. Christian Info Society
21. Christian Medical and Dental Society
22. Christian Service Brigade[alt. site]
23. Christian Studies International
24. Church Army in Canada
25. Compassion Canada
27. CrossWorld
28. Emmanuel International
29. Every Home for Christ International – Canada
30. Focus on the Family (Canada) Association
31. Frontiers Christian Ministries
32. Galcom International
33. Gospel for Asia
34. Greater Europe Mission
35. Home School Legal Defence Association
36. I.N. Network Canada
37. Intercede International (formerly Christian Aid Mission)
38. International Teams Canada
39. International Christian Response
40. International Justice Mission Canada
41. Interserve Canada
42. Inter-Varsity Christian Fellowship of Canada
43. In Touch Ministries of Canada
44. Jews for Jesus Canada
45. Medicine Hat Evangelical Association
46. Mission Aviation Fellowship of Canada
47. Missionfest Toronto
48. Mustard Seed Street Ministry
49. National Alliance of Covenanting Congregations
50. National Association of Marriage Enhancement Canada
51. National House of Prayer
52. Navigators of Canada
53. New Direction Ministries of Canada
54. OM Canada
55. OMF International, Canada
56. One Way Ministries
57. Open Doors with Brother Andrew Canada
58. Ottawa Innercity Ministries
59. Outreach Canada
60. Partners International, Canada
61. Pioneers-Canada
62. Power to Change (formerly Campus Crusade for Christ, Canada)
63. Precept Ministries Canada
64. reSource Leadership International Inc.
65. Samaritan's Purse, Canada
66. Sanctuary Ministries of Toronto
67. Scripture Union Canada
68. Siloam Mission Church of the Nazarene
69. SIM Canada
70. TEAM of Canada
71. The Bible League of Canada
72. The Gideons International In Canada
73. The Miracle Channel
74. The Salvation Army Ethics Centre
75. The Scott Mission
76. The Voice of the Martyrs
77. Vancouver Chinese Evangelical Ministerial Fellowship
78. VisionLedd Ministries
79. WEC International Canada
80. Woman's Christian Temperance Union
81. Women Alive
82. Work Research Foundation
83. World Relief Canada
84. World Vision Canada
85. Wycliffe Bible Translators of Canada
86. Yonge Street Mission
87. Youth for Christ Canada
Affiliate Educational Institutions

1. Alberta Bible College
2. Ambrose University College (formerly AUC-NUC)
3. Atlantic Baptist University
4. Bethany Bible College (Sussex, N.B.)
5. Bethany College (Hepburn, Sask.)
6. Briercrest Family of Schools
7. Canadian Mennonite University
8. Canadian Southern Baptist Seminary
9. Christ for the Nations Bible College
10. Columbia Bible College
11. Emmanuel Bible College
12. Eston College (formerly Full Gospel Bible Institute)
13. Heritage College & Seminary
14. Horizon College & Seminary
15. Institut de théologie pour la Francophonie
16. Institute for Christian Studies
17. The King's University College
18. Master's College & Seminary
19. McMaster Divinity College
20. Nipawin Bible Institute
21. Pacific Life Bible College
22. Peace River Bible Institute
23. Prairie Bible Institute
24. Providence College & Seminary
25. Redeemer University College
26. Regent College
27. Rocky Mountain College
28. St. Stephen's University
29. Steinbach Bible College
30. Summit Pacific College
31. Taylor University College & Seminary
32. Trinity Western University and ACTS Seminaries
33. Tyndale University College & Seminary
34. Vanguard College
35. William and Catherine Booth College
Schedule B: Evangelical Fellowship of Canada’s Charitable Objects as approved by Canada Revenue Agency (Supplementary Letters Patent issued January 15, 2002)

1. To encourage, co-ordinate and facilitate the advancement, teaching, demonstration and implementation of the Gospel of Jesus Christ and related truths of the Holy Bible in Canada and abroad through the gathering, uniting, equipping, assisting and empowering of evangelical Christians, denominations, parachurch organizations, and congregations which adhere to the Statement of Faith (referred to collectively hereafter as “Evangelicals”).

2. Provided that these objects shall include only those which are exclusively charitable at law, and to accomplish the aforesaid objects:

   (a) to uphold and promote the Statement of Faith;

   (b) to provide a forum for Evangelicals to fellowship, communicate and seek growth, renewal and revitalization in their Christian faith;

   (c) to facilitate, co-ordinate and conduct programs, ministries, meetings, studies and conferences to encourage prayer, worship, discipleship, evangelism and the advancement of the Christian faith;

   (d) to facilitate, encourage, develop, and equip leadership within the Evangelical community;

   (e) to foster, facilitate and co-ordinate an understanding amongst Evangelicals concerning the place and the role of Christians and the expression of their faith within a pluralistic society;

   (f) to study, facilitate and promote the application of an evangelical understanding of biblical principles to matters of life and society;

   (g) to facilitate, foster and co-ordinate research, study and dialogue amongst Evangelicals concerning the relevancy of the Christian faith to matters of social responsibility;

   (h) to facilitate, communicate and present an understanding by Evangelicals on matters of social relevancy from a biblical perspective to government, government related bodies, the courts, and public authorities;

   (i) to encourage, promote and facilitate worldwide evangelism of the Christian faith and to develop a respect for religious liberty for all faith communities internationally;

   (j) to establish, operate and maintain Christian retreat centres and/or conference centres to further the objects herein;

   (k) to establish, own, and operate one or more publishing offices, printing plants, distribution centres, or retail facilities for the publication, printing, distribution and sale of all types of literature and publications directly related to the charitable objectives herein;
(l) to produce programs and materials directly related to the charitable objects herein for presentation, broadcast and distribution on any means of audio, visual, computer, electronic or other forms of communication as may become available from time to time;

(m) to receive and maintain a fund or funds for the objects herein and to apply from time to time all or part of the income and/or capital thereof for the objects herein and for the benefit of charitable organizations that are registered pursuant to the Income Tax Act (Canada) that have charitable objects similar to those herein;

(n) to associate and affiliate with any association or organization, incorporated or unincorporated, with charitable objects similar to those herein;

(o) to give property and funds of the corporation to “qualified donees” as defined under the Income Tax Act (Canada), as amended from time to time, to further the objects of the corporation herein;

(p) to carry on “related businesses” within the meaning of the Income Tax Act (Canada) as amended from time to time in furtherance of the purposes stated herein.