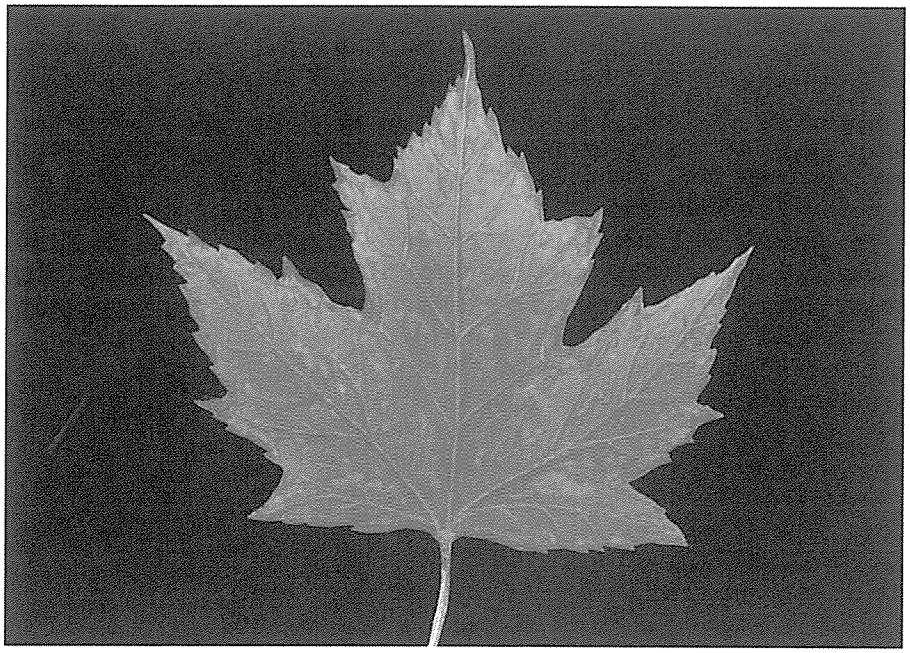
MULTICULTURALISM, ADVOCACY GROUPS, And Charitable Tax Status

By Rashmi Luther

IT HAS NOW BEEN THIRTY YEARS SINCE THE MULTICULTURALISM POLICY WAS FIRST INTRODUCED INTO PARLIAMENT TO HERALD AN IDENTITY FOR CANADA AND CANADIANS THAT ACKNOWLEDGED ITS MAKEUP AS A NATION OF IMMIGRANTS FROM CULTURALLY MIXED BACKGROUNDS. DESPITE THE HIERARCHICAL POSITIONING OF MULTICULTURAL GROUPS AS DISTINCT FROM THE "TWO FOUNDING NATIONS" AND THEIR LANGUAGES (NOT INCLUDING FIRST NATIONS COMMUNITIES), THERE WAS STILL HOPE THAT SOMEHOW THE POLICY WOULD ENABLE ETHNOCULTURAL AND ETHNORACIAL COMMUNITIES TO ESTABLISH THEIR RIGHTFUL PRESENCE AS DISTINCT BUT EQUAL MEMBERS OF SOCIETY.

This reference to distinct but equal emanates from the Policy itself which acknowledges and supports "unity within diversity". From the outset different critiques have emerged about the possibilities of achieving what was held up as a hopeful promise. Some of these critiques contest the very nature of the concept of multiculturalism itself for being divisive, promoting fragmentation, being empty rhetoric and so on. This paper attempts to contribute to this debate by examining the possibilities and constraints faced by ethnocultural and ethnoracial groups in their attempts to establish advocacy organizations that function as legitimate voices for their issues. In light of this, the *Income Tax Act* as it pertains to charitable status registration is reviewed to provide some understanding of the contradictions that are still apparent with respect to non-Charter group communities, despite multiculturalism's promise of cultural recognition, inclusion and equity.



Courtesy Department of Canadian Heritage

Historically, ethnocultural and ethnoracial advocacy groups have long faced the constraints of insufficient and unstable funding, based largely on the absence of alternative sources of funding other than that provided by the state. As a result of this socially constructed dependent relationship, they have felt the force of changing political winds that have seen their presence and contributions as opportunities to be tapped for political gain and as threats to be constrained, contained and managed. In an earlier, more favourable climate of the 1970s and 80s, many groups did emerge, at times through government initiatives, to try to advance multiculturalism from the location of rhetoric to a lived reality. Kobayashi (2000) addresses this link between the groups and multiculturalism in the following passage: "Although such organizations have been in place as long as the communities they represent, that is, since the communities were first established through immigration, present-day associations are direct products of the rise of federal multiculturalism policy as official recognition of the role played by non-Charter groups in Canadian society."

Some associations that emerged at this time formed as advocacy bodies to seek the opportunities and benefits supposedly available to all citizens but elusive for many of their members. The racialized nature of Canadian society was seen by them as being unjust as it opposed the principles of equality and fairness as promoted by the Canadian policy on multiculturalism. In many respects, these advocacy groups were voices for the values of fairness and justice to be extended to all citizens, not only those privileged by race or class. The label of 'special interest', as raised by the Reform party and later adopted by liberal backbenchers such as John Bryden, has served to marginalize their issues and voices once again and to separate them and their interests as being outside those of ordinary citizens.

These volatile relations are not unique to ethnocultural and ethnoracial groups per se but reflect a reaction to the perceived threat of the function that advocacy groups perform. For instance, the essence of advocacy groups is to monitor, demand, critique and oppose state and other policies and actions. While their presence and the performance of this function is vital for the expression of a healthy civil society, they

also pose a threat to prevailing notions of justice and the existing social order. The prevailing order is represented by the dominant ideologies of the time and we have seen these shift dramatically from earlier ones that balanced liberal democratic ideals with those of social democracy to the current dominance of neoliberalism and its preoccupation with debts, restructuring, downsizing and privatizing. An example of the impact of this difference on ethnocultural and ethnoracial advocacy groups is apparent when we compare the growth period of the groups i.e., during the 1970s and 80s with that of the 1990s. In the earlier period, governments more readily assumed their shared responsibility for supporting civil society by providing vital core and project funding to many advocacy groups. However, over the 1990s, and especially since 1995, this form of support has steadily eroded and now favours short term projects and partnership activities, if supported at all. This corresponds with a shift in the dominance of political ideologies from a more participatory democracy to one that is a more rigid form of liberal democracy. As a result, groups have been forced to rely more on the charity of the general public through donations, or on organized charities such as Foundations for their survival. Often, recognition as a registered charity is an asset in the ability to tap these alternate sources of funds. For the general public or for corporations, a portion of their contributions can be claimed as a tax deduction. And, for Foundations, as they themselves are registered as charities, they are restricted to supporting other charities.

With respect to cultural communities, Citizenship and Immigration Canada and the Multiculturalism Secretariat within the Department of the Secretary of State became their primary funder and elected representatives and the state bureaucracy actively sought their input in the deliberation of various issues. Core funding as well as project funding was provided to enable groups to establish and develop a capacity to provide informed and sophisticated advice, initiate dialogue and debate and propose thoughtful alternatives. (Cardozo, 1996) With government support, there was little need for groups to diversify their funding base. In fact, the reality was that very few alternatives existed at that time. This reality was not lost on the groups and some of their advocacy efforts then attempted to increase the level of responsibility for issues of race and culture among different governmental and institutional sectors, including their financial support for activities and programs in their jurisdictions. Consequently, many advocacy groups were dependent on federal funding and were caught off guard by attacks on their credibility, precipitated by the fiscal crisis of the 1990s.

THE INCOME TAX ACT AND REGISTERED CHARITIES

The legislation that governs the registration of charities is the *Income Tax Act*. This Act is administered by the Canada Customs and Revenue Agency (CCRA) which reviews applications for charitable status and interprets the Act. While the Act does not provide a definition of 'charity' it does identify 'charitable activities' and those organizations who are recognized to fall within these activity areas are granted the desired registration number which can be used to issue tax receipts to donors. This number then becomes a vital tool for fundraising as groups seek to diversify their sources of funding.

Groups which openly state their function as advocacy will not be recognized as charities under this Act as it is regarded as a 'political' activity. In fact groups can be denied registration even if this is a small component of their larger purpose. It is carefully specified within the Act, that only 10% of a group's resources can be used for 'political' purposes and any such activities must be 'incidental' to their other functions. (Pross & Stewart, 1993-94) In addition, multicultural activities are not recognized as charitable activities at present. This is because the Act's interpretation is based on precedence and, to date, there have been no court decisions rendered on this aspect. In its absence, "organizations promoting multiculturalism **as a purpose** will usually not be registered as charities." (Emphasis in original) (July 6, 2000 Canada Customs and Revenue Agency letter to the Canadian Ethnocultural Council) These restrictions then pose severe limitations on ethnocultural and ethnoracial advocacy groups in their abilities to diversify their sources for revenues such as direct appeal to donors or applications to charitable foundations.

Currently, the *Income Tax Act* with respect to charities is based on a 1601 British statute (Statute of Charitable Uses) and an 1891 judgement by Lord Macnaghten (Pemsel's case) to identify charitable purposes. (Voluntary Sector Roundtable (VSR):G-1)) These then continue to guide the interpretation of charitable activity four hundred years later. The four categories recognized as legitimate charitable activity areas are: relief of poverty; advancement of education; advancement of religion; and other purposes beneficial to the community. Therefore, groups making application under this Act must demonstrate that they remain within the confines of these specific areas and how they have been interpreted under common law, and that their objectives and activities are also charitable. Advocacy groups have attempted to use the category of 'advancement of education' as a way of situating their objectives and activities and avoiding the label of 'political'. At times this has meant compromising their political ideals, causing internal conflict among the membership and weakening the groups. For others who have pursued this as a category for recognition, some have found that, 'advancement of education' is interpreted rather specifically. These specifications include "'training the mind' in an improvement of a useful field of human knowledge as opposed to promotion of particular political ideology or presentation of biased information" (VSR Report:G-3)

This forced suppression of 'political' intents and fitting within the narrow interpretations of 'education' can be regarded as a clear attempt by the state to stifle and discourage debate and participatory democracy. Also, in the name of requiring 'balance' i.e., the presentation of all sides of an issue in order for it to be considered a genuine educational

activity, a range of absurd situations could occur as noted in the VSR Report:

> *...a Jewish organization being required to give space to the Palestine Liberation Organization or an anti-poverty group to a wealthy person's forum [Drache 1994/95]. To push the argument further, a group educating school children about the history of Holocaust survivors might be required to give equal time to those denying the existence of the Holocaust. Many organizations would also want to have taken into account that the viewpoints contradictory to their own are frequently widely disseminated in the mainstream, including in the media and educational forums. (G-4)*



Courtesy Department of Canadian Heritage

This last point regarding contradictory viewpoints in the mainstream is interesting to note. It underscores the fact that this requirement for balance is selectively imposed on the groups seeking application for charitable status. However, there is no corresponding requirement of the larger society to provide a similar balance that incorporates the perspectives of the excluded groups. Therefore, it has been argued that advocacy groups are providing the needed balance because their perspectives are missing or misrepresented within the broader public. (VSR Report, G-4) The absence of diverse viewpoints and criteria that force silence, compliance and conformity contribute to the critique that the policy of multiculturalism is in effect an attempt to "manage" diversity. (Henry et al., 2000)

This muzzling and containing function is also evidenced in the legislation's requirement that the goals, objectives and activities of a group must have demonstrable benefits to the larger community. For instance, if the beneficiaries are perceived to be a small segment of the population i.e., a specific ethnic group or the group's membership then there is a strong likelihood that the application will be denied. A July 6, 2000 letter from CCRA to the Canadian Ethnocultural Council (CEC) clearly states this possibility: "If it appears that an organization is operating not for the benefit of the public at large, but instead is seeking to promote the interests of its membership, it will fail to qualify for registration. It is inappropriate for charities to be vehicles to articulate or advance the interests of a particular group, although this may be an acceptable incidental result."

On reflection, it is clear that whether intended or not, one function of this legislation is to manage public support (donations) and to channel it into areas that are accepted as non-threatening and which conform to the make up of society as it existed in the Elizabethan period. Quite obviously, this conception is not relevant to the culturally and racially diverse Canada of today. Another function is to reinforce existing structural inequalities based on class and race. This reinforcement occurs through the requirement that there be a broad public benefit which prevents groups from addressing the conditions that create inequalities, thereby rectifying existing imbalances. As such, social issues are de-politicized, as are the groups wishing to address them. Projects that are safe, which encourage coping and acceptance, are preferred. Also, as assessing public benefit is largely a matter of interpretation, it is possible that what a group identifies as a public benefit i.e., advancing racial equality could be regarded by the Act's interpreters as 'self interest'. In addition, with restrictions on 'political' activities, groups face considerable difficulties in undertaking strategies that openly challenge state policies and parties or those that could be perceived as such. This danger is drawn out in the July 6, 2000 CCRA letter: "However, having a political **purpose** is not charitable and an applicant can be refused registration on these grounds. Political purposes are those intended to influence legislation and or public opinion, and those that promote a particular socio-economic ideology, for example the promotion of Canadian unity, where there can be opposing sides to an issue." (Emphasis in original)

This restriction on the "promotion of Canadian unity" is interesting indeed for, in light of the multiculturalism policy, a number of contradictions emerge. If we recall, it was originally envisioned by the Trudeau government as a mecha-

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nism for recognizing diversity and promoting unity among Canadians i.e., 'unity within diversity'. However, the *Income Tax Act* appears to be at odds with the policy for it does not recognize this as a legitimate objective. The reason given for this is that it is restricted by law, i.e., precedence. In its letter to the CEC, the CCRA expresses this as follows: "The Canada Customs and Revenue Agency (CCRA) wishes to support government policies on multiculturalism to the extent allowed by the law." This means that groups denied charitable status must individually appeal such decisions to the courts for judgement and the establishment of precedence. Such a legal challenge is expensive and requires extensive resources. For ethnocultural and ethnoracial advocacy groups who are already financially limited, this becomes a near impossibility. Thus, while in theory there are avenues available to question the narrow interpretations of charitable purposes based in antiquity, financial constraints act as real and formidable disincentives to their access. Therefore, since the 1970s, 13 cases have been heard by the Federal Court of Appeal and eight have been deemed not charitable. The majority of the cases were rejected on the basis of 'political' activity. (VSR Report:G-3-6)

This apparent disjuncture between the multiculturalism policy and charitable recognition under the *Income Tax Act* begins to alert us to the fragile nature of Canadian multiculturalism. It also lends support to critiques which have called the policy "nearly empty as a public policy." (Kobayashi, 2000) Also, if multiculturalism and the promotion of Canadian unity are not seen as legitimate activities worthy of public support (donations) yet lauded as a distinctive feature of Canadian society, then an inconsistent and dangerous message is being conveyed to the public. The message, while not overtly stated but covertly implied, is that multiculturalism is in the public interest only as rhetoric and not as an enactment of that rhetoric. Consequently, as there is no public benefit, no rewards (tax incentives) are warranted. This lack of reward then can act as a disincentive for potential donors and as a further justification for reduced public and state support.

This raises another interesting contradiction concerning the notion of charity and public vs. personal benefit. On the one hand the term carries baggage that is paternalistic. In this respect, individuals carry out philanthropic good deeds by giving money or time out of compassion for other human beings. In so doing, individuals not only express their concerns but also their responsibilities for one another in ways that are 'altruistic'. While such human expressions are commendable, they can also be 'managed' by the state through incentives or disincentives. This then raises another aspect of the notion of charity, that which pertains to tax incentives. Clearly an incentive or a 'carrot' is offered to those who give to charities recognized as legitimate in the form of a tax deduction. (Domingue, 1996) Through such enticements, a component of 'self interest' is introduced whereby those who give are materially rewarded and thus gain individual or corporate tax breaks. In some respects, this practice illuminates the individualized nature of modern Canadian society where values of altruism and collectivity conflict with those of individualism and personal gain.

In discussing 'self interest' and personal gain, yet another contradiction emerges with respect to the *Income Tax Act* and registered charities. Earlier, it was pointed out that multiculturalism was not a recognized goal or area for charitable purposes. Another reason given is that "the promotion of a particular culture can be considered to be the promotion of a 'self-interest' which ... lacks the necessary elements of altruism to enable it to qualify as a charity." (CCRA, 2000) Here, for multicultural groups, goals and activities promoting particular cultures are clearly inadmissible for charitable registration. This prevents them from engaging in political activities and from elevating their own profiles, building solidarity, self- pride and group empowerment. What is permissible are activities that educate "Canadians about a particular culture" but not those which are "promoting a particular culture." (CCRA, 2000) The not so subtle message contained here exposes a biased understanding of 'self interest'. Self interest is acceptable for donors as long as it conforms to sanctioned charities. Self interest is not acceptable, however, if it contains the threat of group empowerment, group mobilization, group protest, and political action that could alter society's inequitable yet acceptable social order. In other words, activities that are reactive and service oriented are fine, but activities that are preventative and challenging of inequities are not.

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For all intents and purposes then, advocacy groups, whose very function is political, seem to be doomed within the current reality. Ethnocultural and ethnoracial groups, by the nature of their issues, coupled with their political activities, are also doubly doomed.

CONCLUSION

At this point it is apparent that a number of inconsistencies are evident in reference to the Multiculturalism Policy. One inconsistency pertains to the issue of credibility for, over the past 30 years, the Policy has confidently promoted the rhetoric of cultural tolerance. However, the reality has been an increase in levels of intolerance towards groups who make demands, critique or challenge the prevailing inequitable order of society. The future of Canadian multiculturalism remains an unknown, but hopefully the past will serve as its valuable teacher.

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