



Position Paper #80

Why Anti-Choice Groups Should Not Have Charitable Tax Status

As of June 2017, there are 192 anti-abortion groups in Canada that have charitable tax status—about 67 groups that appear to be largely political in nature, and about 125 anti-abortion "counselling" centres. This paper explains why we believe that anti-abortion groups inherently do not qualify for charitable tax status.

1. Anti-abortion groups espouse a specific cause and seek to sway the public to their point of view.

All anti-abortion groups are dedicated primarily to the cause of protesting abortion. They seek to persuade the public to the point of view that abortion is wrong and should be illegal. A 1998 Canada Revenue Agency (CRA) court decision said that "jurisprudence generally supports the proposition that activities primarily designed to sway public opinion on social issues are not charitable activities. ... An organization such as Human Life International Canada (HLIC), which espouses a specific cause and seeks to sway the public to its way of thinking, would not qualify as charitable under the category of advancing education."¹

HLIC is an anti-abortion group that had their tax status revoked in 1998. Their publications were found to be "strongly worded to promote HLIC's views on the abortion issue and other controversial social issues." The CRA decision also said, "There is no case law... that would support a finding that promoting an organization's position on such issues as abortion...is charitable. In fact, the courts have found that purposes that are related to promoting one side of a controversial issue or cause are not charitable at law." It was found that HLIC was "devoting substantial resources on political activities which are not incidental and ancillary to charitable objects." These political activities were deemed to include mailing "shock value" postcards to Members of Parliament in Ottawa, organizing a March for Life on Parliament Hill, and promoting its views through tendentious publications, brochures, and advertisements.

2. Promoting the "pro-life" view is political. In contrast, the pro-choice position represents mainstream society and exemplifies professional health care standards.

Anti-abortion groups promote their "pro-life" view in a narrow, one-sided manner. They believe that childbirth is the only choice for pregnant women and that abortion is evil. They do not respect

or trust women's own medical decisions about their bodies, and they promote sexist attitudes about women, insisting that motherhood is the only proper role for women. They are almost exclusively preoccupied with demonizing abortion and abortion providers, working to remove the right to legal abortion, and persuading women not to have abortions. Much of the information they present about abortion is false, inflammatory, scare-mongering, and/or biased. By contrast, several pro-choice groups have charitable status because they educate the public with complete information on all pregnancy options, including abortion.²

The pro-choice view is not a one-sided political view, nor is it the opposite of the anti-choice view. The pro-choice position is the broad, middle-ground view shared by a large majority of Canadians, whether or not they personally agree with abortion. In contrast, anti-choice groups wish to use the law to force women to bring unwanted pregnancies to term. The pro-choice view opposes this extremist, discriminatory position, and says that women (and transgender people who can get pregnant) should have information on and equal access to all pregnancy options, in a safe, non-judgmental atmosphere. In fact, pro-choice health care is the professional standard in this country for all health care—patients must be respected as responsible decision-makers, be given unbiased and accurate information on all options, and not be morally judged for the choices they make. Anything less is unethical and unprofessional.

3. Anti-choice groups distort the issue of abortion when presenting "the other side."

Anti-choice groups, especially anti-abortion counselling agencies, often engage in scare-mongering and guilt-inducing techniques to dissuade women seeking abortions. Their literature and brochures are uniformly anti-abortion, and information presented about abortion is often false or distorted. They also promote abstinence as the only birth control option, with little or no information on other methods, except to say that condoms are unreliable. They scaremonger on sexually-transmitted diseases, exaggerating statistics, and not putting risks into context.³

Anti-choice groups promote only one specific viewpoint and are not fair or balanced in their treatment of pro-choice options and views. Two major anti-choice groups in Canada received legal opinions indicating that they should not apply for charity status: LifeSiteNews, an anti-choice news site.⁴ and Canadian Centre for Bio-Ethical Reform.⁵ Both opinions cited as a primary reason the groups' near-exclusive focus on promoting "pro-life" views. These legal opinions are relevant to the charity status of **all** anti-choice groups, none of which should have charitable status for the same reason.

4. Anti-abortion groups do not qualify as educational because their "educational" activities are mostly unstructured, and consist largely of tendentious propaganda, opinion, misinformation, and appeals to emotion.

Most anti-abortion groups claim education and/or research (or "family/crisis counselling") as their main charitable activities. But the "education" generally consists of distributed pamphlets and newsletters. Some groups also hold conferences, workshops, etc., but these are primarily aimed at their membership, not the general public. This is generally the extent of their "education."

According to the *Canadian Encyclopedic Digest*, "so long as information or training is provided in a structured manner, for a genuinely educational purpose and not solely to promote a point of view of political orientation, it falls within the advancement of education."⁶ Anti-abortion groups are political and clearly acting to promote a point of view.

The CRA has said that for a group to be eligible for charitable tax status, the information it provides must be "presented in an unbiased manner so as to allow the reader to make up his/her own mind on the position being advocated."⁷ But the literature of all anti-abortion groups tends to be one-sided, emotional, and rife with unsubstantiated opinions and misinformation. In fact, much of their "education" is devoted to condemning abortion (or euthanasia).

The Supreme Court of Canada in *Vancouver Society of Immigrant and Visible Minority Women* case ("Vancouver Society") examined the issue of education as a charitable purpose. The court said that education does *not* include educating people about a particular point of view in a way that might be described as persuasion or indoctrination. Specifically, where "an organization is established to provide information to the public of selected items of information and opinion [it] is not advancing education in the charitable sense."⁸ This fits the false "educational" model of anti-choice groups precisely.

Some anti-abortion propaganda may be so extreme (e.g., calling doctors "baby butchers" and "killers"), that it serves to incite hatred and possibly violence against abortion providers. No anti-abortion group should have charitable tax status if they use inflammatory language that demonizes or incites hatred against providers (or that discriminates against women or transgender people).

All anti-abortion groups support and work towards the goal of re-criminalizing abortion, even if they claim to be using "educational" means to achieve it.

Almost all anti-abortion groups are religiously-based and motivated, because the anti-choice viewpoint is fundamentally a religious doctrine.⁹ Some counselling groups proselytize openly (often to unsuspecting and vulnerable clients), even though they obtained their charitable status on claims of being "educational" or engaged in "research" or "family/crisis counselling." In fact, most Canadian anti-abortion counselling centres with charitable status are explicitly Christian.¹⁰

5. The purpose of anti-choice groups has become largely detrimental to society since 1988, because access to legal abortion has been deemed by the courts to be a constitutional right guaranteeing women's equality and liberty.

In the 1988 Morgentaler decision that struck down Canada's abortion law, the Supreme Court justices ruled that restricting access to abortion violates women's guarantee of "security of the person" (section 7 of the *Charter of Rights and Freedoms*). Justices also cited other provisions of the Charter, including "freedom of conscience" (section 2a), "liberty" (section 7), and "equality" (section 15). One of the justices said in a concurring opinion: "The right to liberty...guarantees a degree of personal autonomy over important decisions intimately affecting his or her private life. ... The decision whether or not to terminate a pregnancy is essentially a moral decision and in a free and democratic society, the conscience of the individual must be paramount to that of the state." Access to legal abortion is therefore a constitutional right for women and must not be abridged.

Abortion is also a medically necessary service endorsed by the Canadian Medical Association and covered under the *Canada Health Act*. No law exists to prohibit access to this service. The maintenance of legal abortion services is supported by both federal and provincial governments, and every major political party, including the Conservative party.

However, many anti-choice groups obtained charitable status decades ago, long before abortion was decriminalized in 1988. Anti-choice groups do not accept the law of the land, or even the right to

non-judgmental information about abortion. The ultimate, implicit goal of all anti-abortion groups is to restrict abortion by law, or at the very least, change current government policies to make abortion considerably less accessible. Campaign Life Coalition, which calls itself the “political arm” of Canada’s anti-abortion movement, has made that aim very clear, as stated on their Facebook page.¹¹

“We are working to restore the right to life, from conception to natural death, at all levels of government – federal, provincial, and municipal. We support any legislative measure to end anti-life practices, either directly or indirectly, on the condition such a measure does not compromise our basic pro-life beliefs. We defend the sanctity of human life against threats posed by abortion, euthanasia, doctor-assisted suicide, reproductive and genetic technologies, cloning, infanticide, eugenics, population control, and threats to the family.”

Whether charitable or not, all anti-choice groups share the same basic aims – if not to restrict abortion, at least to stop people from having them. But re-criminalizing abortion or thwarting access discriminates against women and trans people and would compromise an important constitutional right. What harms them, harms their families and all of society. The work of anti-abortion groups therefore no longer has any public benefit (if it ever did) and is now detrimental to society.

6. International human rights documents recognize that women have a basic right to reproductive healthcare, and related information and education.

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Canada in 1981, says that signatory states will take measures to eliminate discrimination by ensuring that women have the same rights as men to “to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights.”¹²

More recently, the UN has declared that abortion is a human right.¹³ Specifically referencing Ireland, the UN stated “...the prohibition, and by extension criminalization, of abortion in and of itself has been found to violate human rights. It is discriminatory and subjects women to cruel, inhuman and degrading treatment”¹⁴ and that “criminalization of abortion and failure to provide adequate access to services for termination of an unwanted pregnancy are forms of discrimination based on sex.”¹⁵

Women's basic human rights include the right to unbiased and accurate information about reproductive healthcare services, and the right to access such services, including contraception and abortion (where legal). Pro-choice groups provide such information and services, but anti-abortion organizations and counselling agencies do not. Therefore, the latter are in violation of international human rights codes.

7. Because of their charitable status, anti-abortion groups enjoy an unfair and unethical tax advantage and higher donation rates compared to pro-choice groups.

Research shows that people donate three times as much money when they can claim a charitable tax credit than when they can't.¹⁶

Political pro-choice groups do not have charitable status because of their political work, even though they also carry out a large amount of educational work and provide services to women. 191 anti-choice groups in Canada are enjoying the fruits of this status even though they primarily

just disseminate propaganda disguised as education, and may engage in too much political activity. Most of these 191 anti-abortion groups have never been audited. In contrast, anti-choice groups often target the handful of charitable groups that provide unbiased information about abortion, by complaining to the CRA. For example, the group Childbirth by Choice (now defunct) was audited in the mid-1990's after a probable complaint by an anti-abortion group. It retained its status after being required to make its literature more "balanced."¹⁷

8. Anti-abortion groups should be designated as Non-Profit Organizations, if they must be given any designation at all.

According to the CRA website, registered charities "must use their resources for charitable activities ... that fall into one or more of the following categories: the relief of poverty, the advancement of education, the advancement of religion, other purposes that benefit the community."¹⁸ Nothing anti-choice groups do is in relation to these things. They do not provide financial assistance to women after they give birth. They, as argued above, are not educating people such as does Education Without Borders¹⁹ or Charitree Foundation²⁰, but rather provide unscientific information to further their beliefs. They use religious rhetoric in their arguments but are not raising money to assist with building churches or assisting with religious services. Contravening the Charter and limiting women's rights does not benefit the community, but harms it.

If anything, anti-choice groups should be relegated as non-profit organizations (NPOs) which "are not charities and are organized ... for any other purpose except profit." NPOs are generally interest groups, such as "social, recreational or hobby groups", or they are advocacy groups such as Abortion Rights Coalition of Canada (a federally registered NPO). Despite their slight resemblance to a charity, anti-choice groups fit the mold of social or advocacy groups whose members participate in activities like holding "Respect for Life" events, protesting against abortion, and sending letters to politicians. As such, they are not deserving of charitable status and the benefits that designation brings.

9. Recent cases where the Minister of National Revenue confirmed the CRA's decision to deny an appellant organization charitable status

1. Humanics Institute v. Canada (National Revenue), 2014 FCA 265.²¹

The appellant religious group proposed, amongst other things, to build and maintain a sanctuary and sculpture park, but was denied charitable status because it "would not advance religion or education in the charitable sense". This relates to anti-abortion groups because while they tend to use religion as a basis for their argument, their purpose is not to advance religion or education.

2. Sagkeeng Memorial Arena Inc. v. Canada (National Revenue), 2012 FCA 171.²²

The appellant in this case was arguing they were a charitable organization despite being unable to provide detailed information showing that its activities were focused on charitable objects and that all its resources would be devoted to charitable activities. This case is relevant because, as mentioned previously in this paper, anti-abortion groups are not focused on charitable activities, merely on spreading their own political rhetoric.

¹ Reasons for Judgment, A-288-94. March 18, 1998. *Human Life International in Canada Inc. v. Minister of National Revenue*. (Fed. C.A.)

² These include Options for Sexual Health in BC, Action Canada for Sexual Health and Rights, four chapters of Planned Parenthood, and the National Abortion Federation. Compare the website of Planned Parenthood Toronto www.ppt.on.ca/ppt/wp-content/uploads/2016/11/Abortion.pdf and any anti-choice group. There is a striking difference in tone and the accuracy of information provided about how abortion is performed.

³ Arthur J, and Bailin R, Dawson K, Glenwright M, Reinhardt-Simpson A, Sykes M, and Zimmer A. May 2016. *Review of "Crisis Pregnancy Centre" Websites in Canada*. Abortion Rights Coalition of Canada. <http://www.arcc-cdac.ca/CPC-study/CPC-Website-Study-ARCC-2016.pdf>

⁴ LifeSite News / Carters Professional Corporation. *Why LifeSiteNews and Most Canadian Pro-Life Organizations Are Denied Charitable Tax Status*, Sept 2007. <https://www.lifesitenews.com/images/pdfs/CharitableStatusLegalOpinion.pdf>

⁵ Canadian Centre for Bioethical Reform. *Why CCBR is Not a Registered Charity*. Nd. https://www.endthekilling.ca/sites/default/files/why_ccbr_is_not_a_registered_charity.pdf

⁶ CED Charities II.2 §33. Thomson Reuters. Likewise, “A trust for the espousal of a political cause or aspiration is not charitable” (CED Charities II.6 §77 and CED Charities II.8 §98 referencing *Human Life* in Endnote 1).

⁷ Federal Court of Appeal, A-94-96. 1999. *Alliance for Life v. Minister of National Revenue*, para. 11.

⁸ Vancouver Society of Immigrant and Visible Minority Women v. MNR, [1999] 1 S.C.R. 10. 4. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1676/index.do>

⁹ Arthur, Joyce. Autumn 2001. Abortion and Religion. *Pro-Choice Press*. www.prochoiceactionnetwork-canada.org/prochoicepress/01autumn.html

¹⁰ Canadian Association of Pregnancy Support Services. About Us. <http://www.capss.com/about-us/>

¹¹ Campaign Life Coalition. About. <https://www.facebook.com/pg/CampaignLifeCoalition/about/>

¹² United Nations. *Convention on the Elimination of All Forms of Discrimination against Women*. December 1979. <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

¹³ Grimes, David A. January 2016. United Nations Committee Affirms Abortion as A Human Right. *Huffington Post*. http://www.huffingtonpost.com/david-a-grimes/united-nations-committee-affirms-abortion-as-a-human-right_b_9020806.html

¹⁴ Amnesty International. June 9, 2016. *Ireland's ban on abortion violates human rights – ground-breaking UN ruling*. <https://www.amnesty.org/en/latest/news/2016/06/irelands-ban-on-abortion-violates-human-rights/>

¹⁵ United Nations. Sept 27, 2016: *Repealing anti-abortion laws would save the lives of nearly 50,000 women a year – UN experts*. <http://www.un.org/apps/news/story.asp?NewsID=55141#.WR24Ddy1vX4>

¹⁶ Ottawa Citizen. April 22, 1995. *What makes a good cause? Registered charity status grants groups a halo of legitimacy*.

¹⁷ Ottawa Citizen, ibid.

¹⁸ Canada Revenue Agency. *What is the difference between a registered charity and a non-profit organization?* June 2016. <http://www.cra-arc.gc.ca/chrts-gvng/dnrs/rgltn/dffrnc-rc-np-eng.html>

¹⁹ <http://www.educationwithoutborders.ca/>

²⁰ <http://www.charitree-foundation.org/>

²¹ <https://www.canlii.org/en/ca/fca/doc/2014/2014fca265/2014fca265.html>

²² <https://www.canlii.org/en/ca/fca/doc/2012/2012fca171/2012fca171.html>