Charting a Path Forward

Strengthening and Enabling the Charitable Sector in Canada

BY LISA LALANDE & JOANNE CAVE

Enabling Environment

MowatNFP

Acknowledgements

Authors

LISA LALANDE
Executive Lead

JOANNE CAVE
Social Policy Researcher

Imagine Canada

As the national umbrella organization for charities and nonprofits, Imagine Canada believes governments and charities must work together to solve today's complex social and environmental challenges. Mowat NFP's Enabling Environment series is a timely contribution to the wide-ranging discussion about the policies, issues, regulatory systems, and administrative relationships that form the basis of how the government and sector work together. Imagine Canada is pleased to contribute to the series. Our intention is to utilize the papers to support public policy discussion and development in the sector. Stay up to date with these activities by signing up for our Early Alert at imaginecanada.ca/earlyalert.

MowatNFP

Enabling Environment

Mowat NFP undertakes collaborative applied policy research on the not-for-profit sector. As part of an independent think tank with strong partnerships with government and the sector, Mowat NFP brings a balanced perspective to examine the challenges facing today's sector and to support its future direction. Mowat NFP works in partnership with umbrella organizations to ensure our research and policy recommendations are timely and relevant to the sector and reflect its values.

This paper is the first in a series that Mowat NFP is producing focused on helping the federal government and nonprofit and charitable sector develop a modern federal policy framework. This framework will focus on enabling the sector and strengthening its ability to improve quality of life in Canada and abroad. The series will explore the several dimensions of an enabling environment, including the relationship between the sector and government, regulation, financing, data, and research and development. The papers will evaluate policy options and offer a future-oriented perspective on how the government and sector can work together.

Mowat Centre
ONTARIO'S VOICE ON PUBLIC POLICY

The Mowat Centre is an independent public policy think tank located at the School of Public Policy & Governance at the University of Toronto. The Mowat Centre is Ontario's non-partisan, evidence-based voice on public policy. It undertakes collaborative applied policy research, proposes innovative research-driven recommendations, and engages in public dialogue on Canada's most important national issues.

Introduction

Over the last two decades, Canada's nonprofit and charitable sector has evolved significantly, continuing to contribute an essential part of Canada's social fabric, civic life, and economy.[1]

Nonprofits and charities provide opportunities for individuals to express their beliefs and values, improve their conditions and create stronger communities through their work in areas such as arts and culture, education, sports and recreation. The sector has proven to be an important partner to governments in providing health, housing, immigration, child welfare and other essential services to Canadians. Charities and nonprofits play a crucial role in shaping policies and laws that reflect the current needs and values of Canadians. In doing so, the sector is a vital partner in maintaining a healthy and productive democracy.

But the sector is at a crossroads. Growing demand for services has put pressure on charities and nonprofit organizations. Canada's changing demographics – an aging population, increased rural-to-urban migration of indigenous communities, rising income inequality and a record number of immigrants and refugees[2] – are all increasing demand for their programs and services.[3]

A sluggish economy is putting pressure on governments and affecting how they work with, think about and finance charities and nonprofits. Governments are increasing pressure on organizations to streamline operations, find efficiencies and demonstrate impact.[4] But shrinking budgets can impact salaries and other employment conditions, contributing to precarity in the sector, ultimately affecting organizations' ability to meet the social and environmental needs of their communities.[5]

"Donations, government grants and contributions will not keep pace with increasing demand for services. This will result in a social deficit that will manifest as unmet needs in the community. There is a need to reexamine administrative relationships, regulatory regimes, and how we work together for the common good."

Brian Emmett, Chief Economist for Canada's Charitable and Nonprofit Sector

1 Brian Emmett (2016). "Charities, Sustainable Funding and Smart Growth." Toronto. Imagine Canada. http://www.imaginecan-ada.ca/sites/default/files/imaginecanada_charities_sustainability_smart_growth_2016_10_18.pdf.
2 Thomas Granofsky, Miles Corak, Sunil Johal and Noah Zon (2015). "Renewing Canada's Social Architecture Framing Paper." Toronto: Mowat Centre. https://mowatcentre.ca/renewing-canadas-social-architecture/.
3 Brian Emmett (2016). "Charities, Sustainable Funding and Smart Growth." Toronto. Imagine Canada. http://www.imaginecanada.ca/sites/default/files/imaginecanada_charities_sustainability_smart_growth_2016_10_18.pdf .
4 Brian Emmett (2016). "Charities, Sustainable Funding and Smart Growth." Toronto. Imagine Canada. http://www.imaginecanada.ca/sites/default/files/imaginecanada_charities_sustainability_smart_growth_2016_10_18.pdf.
5 Jamie Van Ymeren, Lisa Lalande (2015). "Change Work: Valuing decent work in the not-for-profit sector." Toronto. Mowat NFP. https://mowatcentre.ca/change-work/.

The sector has made efforts to evolve to meet rising demands, but Canada's current systems, structures, policies and legislation could be viewed as risk-averse, outdated and constraining, limiting opportunities for innovation, experimentation, revenue generation and cross-sector collaboration. The resulting mismatch between organizational realities of nonprofits and charities and the current policies and frameworks has strained the government-sector relationship.

The Canada Revenue Agency (CRA)'s political-activity audits of charities are just one recent and public example of the dysfunction in the government-sector relationship.[6] The debate over advocacy efforts and definitions of 'political' activity brought to the surface systemic problems in the relationship that were brewing for years. The perceived 'advocacy chill'[7] demonstrated the acute need to modernize rules and regulations affecting the sector so that organizations can thrive and engage as active participants in a vibrant, healthy democracy.

The federal government has not moved forward with sector reform since the Voluntary Sector Initiative (VSI)[8] ended in 2005. While the VSI made some impact on the federal policy landscape,[9] it fell short of its potential in addressing structural, legislative and regulatory barriers impacting the sector. As a result, discontent with the regulatory and policy environment remains.

The current federal government has committed to strengthening the sector by focusing on the issue of public policy engagement, but efforts to reform must not stop there.

Recent consultations with sector stakeholders have consistently surfaced a recurring theme – the importance of creating an "enabling environment." An enabling environment safeguards public interest and supports the sustainability of charities and nonprofits[10] while optimizing the policy landscape for innovation and experimentation.

The question is – how do we get there, and where do we start?

6 In 2012, the federal government allocated $13.4 million to conduct audits of charities' public policy engagement activities over five years. The issue highlighted the need for clarification of the rules charities operate under, and the legitimate role charities play in the public policy process.
7 The advocacy chill refers to the hesitancy of voluntary sector organizations to engage in advocacy work due to fear of sanctions, loss of funding and deregistration by the CRA. See Gareth Kirby (2014) "An uncharitable chill: A critical exploration of how changes in federal policy and political climate are affecting advocacy-oriented charities." Unpublished Master's Thesis Manuscript. http://garethkirkby.ca/thesis/posting-final-version/). Cited in Lisa Lalande (2016) "On The Mend: Putting The Spark Back in the Government-Charitable Sector Relationship." Toronto: Mowat NFP. https://mowatcentre.ca/on-the-mend/.
8 The Voluntary Sector Initiative was a five-year joint partnership between the Government of Canada and the voluntary sector that started in 2000. VSI convened seven joint working groups and resulted in the development of *The Accord Between the Government of Canada and the Voluntary Sector*, the *Code of Good Practice on Funding* and the *Code of Good Practice on Policy Dialogue*.
9 Employment and Social Development Canada (2009). "Voluntary Sector Initiative Impact Evaluation: Lessons Learned from the Voluntary Sector Initiative (2000-2005)." http://www.esdc.gc.ca/eng/publications/evaluations/social_development/2009/august.shtml.
10 Elizabeth Mulholland, Matthew Mendelsohn and Negin Shamshiri (2011). "Strengthening the Third Pillar of the Canadian Union." Toronto: Mowat Centre. https://mowatcentre.ca/strengthening-the-third-pillar-of-the-canadian-union/.

This paper will:

» Define the current challenge in the relationship between the federal government and the nonprofit and charitable sector.

» Explore what an enabling environment could look like.

» Identify possible priorities for the sector and government.

» Present options for engagement to enable the government and sector to work together.

This paper will be the first in a series that Mowat NFP is producing focused on helping the federal government and nonprofit and charitable sector develop a modern federal policy framework. This framework will focus on enabling the sector and strengthening its ability to improve quality of life in Canada and abroad.

There are many windows with which to view the sector, its challenges and its needs. This series is merely one of them. It is intended to start a conversation and help prioritize actions with the ultimate goal of reforming the broader government-sector relationship.

The Relationship Challenge

There are three core issues facing Canadian governments and the sector that are causing friction in the relationship:

Lack of vision and unifying framework

Canada currently lacks an overarching guiding framework that articulates a vision and shapes the relationship between governments and the sector.[11] A framework is required to guide to legislative and regulatory choices and trade-offs. Decisions regarding the sector can be haphazard without one. One such example is Budget 2017 – while individual charities were mentioned for specific program investments, there were no budget commitments to nonprofits and charitable organizations as a sector.

What should the governments' relationship with the sector be and what should be the institutional links? In 2001, the Accord between the Government of Canada and the Voluntary Sector was signed as a guiding framework for the VSI. Similar to the UK's Compact in 1998, the Accord articulates guiding values, principles, roles and responsibilities for a "mutually desired relationship, including a shared vision of civil society and a desire for collaboration and partnership".[12] The Accord was an important signal to the nonprofit and charitable

11 Susan Phillips (2002). "From Charity To Clarity: Reinventing Federal Government-Voluntary Sector Relationships." *The Philanthropist* 16(4): 240-262.
12 Peter Elson (2007). "A Short History of Voluntary Sector-Government Relations in Canada." *The Philanthropist* 21(1): 36-74.

sector, but unfortunately, despite the government's befforts, the relationship that was initially envisioned has yet to be realized due to a lack of political will.[13] While dated, the Accord provides a useful foundation to articulate what the new enabling environment should look like.

Lack of harmonization across provinces and territories

Based on the *Constitution Act*, 1867 the provinces have jurisdiction over charities. Nonprofits are regulated either federally or provincially (based on where they have chosen to incorporate). As a consequence, the provinces and territories have established their own legislative and regulatory frameworks[14] and there is considerable lack of harmonization of approaches.[15]

This lack of harmonization on aspects of legislation and regulation (such as transparency, information-sharing and corporate form) impacts the sector's ability to coordinate on a national level, resulting in duplication and inefficiency in both policy and legislation. The VSI was an important first step in promoting federal-provincial collaboration on sector issues, and more alignment is needed to ensure the sector is engaged and thriving.

Lack of role clarity and overlap of responsibilities

While the provinces and territories have an important constitutional role in regulating the nonprofit and charitable sector, the CRA has gradually filled an unmet need in providing federal policy direction on the activities of registered charities. The CRA's Charities Directorate has a role in providing policy guidance (ensuring organizational compliance and collecting data on charitable activities), but its mandate is not to support the growth and development of the sector as a whole. Issues impacting the sector cut across several ministries such as Finance, Revenue, and Employment, Workforce Development and Labour.

There is a significant lack of policy capacity and coordination at the federal level to consult on sector needs and priorities, engage proactively in policy dialogue and empower the sector to participate actively in the democratic process.

These barriers impact nonprofit and charitable organizations directly, and arguably, the governments' ability to maintain and improve quality of life for the people and environments they serve.[16] These issues in the relationship create an environment that constrains rather than enables the sector.

13 Patrick Johnston (2013). "A Retrospective Look at the Voluntary Sector Initiative (VSI): What Lessons Did We Learn?" *The Philanthropist* 25(1): 21-31.
14 Elizabeth Mulholland, Matthew Mendelsohn and Negin Shamshiri (2011). "Strengthening the Third Pillar of the Canadian Union." Toronto: Mowat Centre. https://mowatcentre.ca/strengthening-the-third-pillar-of-the-canadian-union/.
15 Peter Elson. (2014). "Third wave, third sector: A comparative provincial analysis of the governance of third sector relations." *Canadian Journal of Public Administration* 57(4): 527-547.
16 Elizabeth Mulholland, Matthew Mendelsohn and Negin Shamshiri (2011). "Strengthening the Third Pillar of the Canadian Union." Toronto: Mowat Centre. https://mowatcentre.ca/strengthening-the-third-pillar-of-the-canadian-union/.

From Constraining to Enabling

These challenges have created confusing, restricted, fragmented and siloed environments for charities and nonprofit organizations. The question then becomes – what kind of relationship and environment does the sector need in order to thrive?

Building off the work of the Accord, a vision for the relationship could be one that recognizes the sector's important role in contributing to people's quality of life. Based on this vision, an enabling environment is one where the government invests in the growth and success of the sector and consults key stakeholders on their priorities and needs. It safeguards public interest, supports the sustainability of charities and nonprofits,[17] while optimizing the policy landscape for innovation and experimentation.

Enabling environments are designed to mobilize people, resources and organizations towards innovation by ensuring feedback loops between government and sector partners, creating a culture that "accepts the new" and promotes meaningful risk-taking. It could be compared to the Government of Canada's "innovation agenda" – an opportunity to reduce red tape, raise the profile of Canadian initiatives, identify opportunities for strategic investment and incentivize growth and collaboration.[18]

This could take multiple forms – launching innovative pilot projects, earmarking a proportion of government grants for the charitable and nonprofit sector for research, development and innovation activities, conducting a comprehensive review of legislative and regulatory barriers for nonprofit and charitable organizations or establishing open, accessible cross-sector networks for information-sharing and priority-setting.[19]

17 Elizabeth Mulholland, Matthew Mendelsohn and Negin Shamshiri (2011). "Strengthening the Third Pillar of the Canadian Union." Toronto: Mowat Centre. https://mowatcentre.ca/strengthening-the-third-pillar-of-the-canadian-union/.
18 Government of Canada (2017). "Positioning Canada To Lead: An Inclusive Innovation Agenda." https://www.ic.gc.ca/eic/site/062.nsf/eng/h_00009.html.
19 Geoff Mulgan and Charles Landry (1995). *The Other Invisible Hand: Remaking Charity in the 21st Century*. London: Demos.

FIGURE 1
Transforming the Environment - From Constrained to Enabled
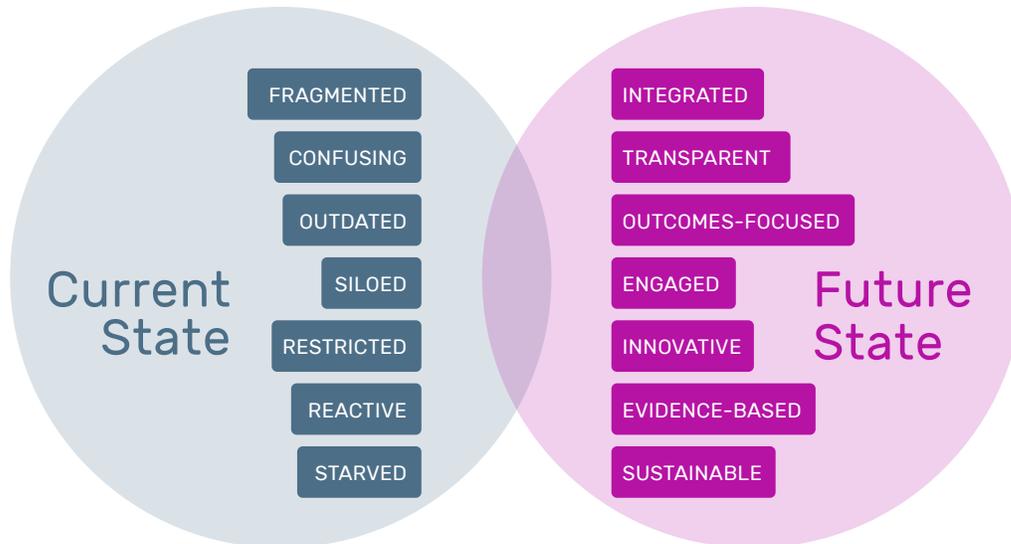
An enabling environment would breathe new life into the nonprofit and charitable sector. It would ensure that the right systems and structures are in place for it to thrive and function as a more effective partner to government. This future state will require broader reform. Transforming systems and laws is daunting and involves multiple levels of government. How can our governments tackle such complicated reform? Where do they start?

Possible Policy Areas

An enabling environment has several dimensions including the relationship between the sector and government, regulation, financing and funding reform, data and information, research and development (innovation), and labour force development. While consensus on key issues within these policy areas may be challenging, the government and sector can consider focusing on the following:

Structures and Governance

1. CHARITY REGULATION

The CRA's Charities Directorate is Canada's primary charities regulator. Many charities believe the Directorate takes too narrow an approach in setting the rules on what charities can and cannot do. Legislative or regulatory reform to the Directorate's role and practices may open new space and new partnerships in which charities can advance their missions.[20]

20 It is important to note that the regulation and oversight of nonprofits in Canada is distinctly different for charities. This paper will focus on charities. An examination of the treatment of comprehensive frameworks regulating nonprofits would require further work.

2. INTERGOVERNMENTAL COLLABORATION

The federal government's approach to sector modernization must be a collaborative effort with provincial, territorial, municipal and Indigenous leaders. In an era of fiscal restraint, it is particularly important for government partners to clarify roles, affirm jurisdictional responsibilities and establish clear expectations for their working relationship.[21] There are some examples of successful models of intergovernmental collaboration with the sector (federally and provincially). There is an opportunity to examine the principles and lessons that come out of those.

3. SOCIAL INNOVATION

The social innovation ecosystem is growing in Canada, but many organizations need support and resources to apply social innovation tools and concepts to not only improve their day-to-day operations and strategic planning, but also bring their great ideas and programs to scale. Examining success stories and the principles and lessons that come out of those could help the sector and government identify ways to better support and enable social innovation in the sector.

Systems

4. DATA AND INFORMATION

There are very limited data sources to track nonprofit sector trends in Canada since the discontinuation of initiatives such as Statistics Canada's Satellite Account of Non-Profit Institutions and Volunteering in 2008 and the National Survey of Nonprofit and Voluntary Organizations. Collecting centralized data on organizations (their size, funding sources and activities) and the sector's labour force and economic and social impact is a key priority.

Shared information infrastructure in the nonprofit sector is also needed to support impact measurement[22] and inform policy-making. Existing data platforms are largely subsector-specific (e.g., the Canada Social Report or Canadian Institute for Health Information) and make it difficult to aggregate data across the sector as a whole. The Government of Canada could explore several options, including establishing centres of excellence, data labs or "what works" centres or investing in sector capacity-building.[23]

21 Elizabeth Mulholland, Matthew Mendelsohn and Negin Shamshiri (2011). "Strengthening the Third Pillar of the Canadian Union." Toronto: Mowat Centre. https://mowatcentre.ca/strengthening-the-third-pillar-of-the-canadian-union/.
22 Lisa Lalande, Joanne Cave and Rajesh Sankat (2016). "Unpacking Impact: Exploring Impact Measurement for Social Enterprises in Ontario." Toronto: Mowat NFP. https://mowatcentre.ca/wp-content/uploads/publications/130_unpacking_impact.pdf.
23 Jamie Van Ymeren (2015). "An Open Future: Data Priorities for the Non-Profit Sector." Toronto: Mowat Centre. https://mowatcentre.ca/an-open-future/.

Outcomes funding refers *to a variety of contracting arrangements where governments pay providers and, occasionally, private investors for having a positive, measureable impact on the lives of service users. Outcomes funding arrangements can take a variety of forms such as performance-incentive funding, payment for performance, outcomes-based contracting, and social impact bonds.*

Source: Jennifer Gold and Matthew Mendelsohn (2014). "Better Outcomes for Public Services – Achieving social impact through outcomes-based funding". Toronto: Mowat Centre. https://mowatcentre.ca/better-outcomes-for-public-services/.

5. OUTCOMES FUNDING

Worldwide, there is growing interest from governments in paying for services based on the outcomes those services achieve. To accept outcomes funding agreements, a service provider must define its outcomes precisely, set realistic targets for those outcomes, and understand the costs and benefits to different types of evaluation. As the government considers outcomes funding, it is important that it understand the barriers and constraints of service delivery organizations and what is needed to enable service providers to deliver effectively (such has how to work with service delivery organizations in selecting outcomes, determining what type of reporting is most useful, and having access to the data infrastructure needed for impact measurement).

Financing

6. SOCIAL ENTERPRISE

The sector is experiencing a growing sustainability challenge.[24] While social enterprise will not be the solution to the sector's growing funding needs, it has the potential to help charities increase revenues. Yet there are regulatory restrictions affecting their ability to earn revenue. The social enterprise ecosystem is also diverse in geographic context, issue area, funding and corporate form. It is fragmented and siloed due to the lack of common definitions,[25] leaving many to question whether unifying provincial and federal strategies for social enterprises are indeed possible.

24 Brian Emmett (2016). "Charities, Sustainable Funding and Smart Growth." Toronto. Imagine Canada. http://www.imaginecanada.ca/sites/default/files/imaginecanada_charities_sustainability_smart_growth_2016_10_18.pdf .
25 Lisa Lalande, Joanne Cave and Rajesh Sankat (2016). "Unpacking Impact: Exploring Impact Measurement for Social Enterprises in Ontario." Toronto: Mowat NFP. https://mowatcentre.ca/wp-content/uploads/publications/130_unpacking_impact.pdf.

The Enabling Environment Series

Mowat NFP will examine these topics further in a series of papers that will be published throughout 2017. Each paper will identify and provide context on the issues, evaluate policy options and offer a thoughtful, future-oriented perspective on how the government and charitable and nonprofit sector can work together. The papers can be used to set context and guide future discussions about priority-setting between the government and sector. The topics in the series have been selected to act as a starting point for sector-government discussions.

The issues above were identified through sector consultations and a literature review and informed by federal government priorities. This is not meant to be an exhaustive list. For example, funding reform[26] and labour force development[27] were also identified in discussions as other areas of significant opportunity. Although they will not be explored through the Mowat NFP series, they merit additional research.

Charting a Path Forward — Options for Engagement

Nonprofits and charities have been working within this constrained policy environment for some time. Arguably, they will continue to find ways to persevere despite barriers and constraints. However, maintaining the status quo has real and possibly negative impacts for Canadians who are relying more heavily on nonprofit and charitable organizations to improve their quality of life. A critical task now is selecting an inclusive, integrated consultation process to determine how the sector and government can create an enabling environment.

The challenge is that a consultative approach will require the engagement of stakeholders with different levels of policy expertise and knowledge of the sector, including policy leaders, numerous small organizations and the general public. There is likely no perfect scenario, but below are some possible approaches to consider:

NATIONAL CONSULTATION PROCESS

Similar to the CRA consultation, the Government of Canada could lead a broad consultation with nonprofit organizations and members of the public using several mediums (e.g. local town halls, online submissions, webcasted forums, an editable wiki platform). A national consultation would be best suited for an issue-by-issue approach, allowing sector stakeholders to focus one specific area of reform at a time.

---

26 Government contracts with nonprofit and charitable organizations remain disjointed across departments, and there is a significant opportunity to streamline contracting and procurement practices and promote better information sharing. The Treasury Board Secretariat efforts to harmonize funding contracts are one promising example to explore further.
27 The nonprofit sector employs 2 million Canadians and contributes an average of 8.1% of total Canadian GDP, but lacks a sector-wide labour force strategy to identify training and skills gaps and plan for the future. Canada's aging workforce and high rate of youth unemployment makes this issue both important and timely.

SECTOR PARTNERSHIP

The Government of Canada could partner with several regional or national nonprofit organizations (a small "leadership group") or umbrella organizations to co-design a consultation process and strategy, with input from other stakeholders in the sector. This process of relationship brokering is time-intensive but highly valuable, and could lay the groundwork for a long-term reform agenda.

NATIONAL FORUM

Similar to Imagine Canada's 2011 National Summit, the Government of Canada could convene a national forum on the future of the nonprofit sector and crowdsource sector priorities to inform a national strategy/policy agenda. Small task forces or working groups could follow up on specific reform areas after the forum concludes. A national forum would be best suited to identifying sector priorities as a collective, rather than shaping a particular course of action.

THIRD PARTY CONVENER

A neutral, third party broker could be engaged to convene sector organizations together (both provincial and federal). This option provides flexibility and could address a variety of issues, engaging with sector stakeholders throughout the process. It would also be a strategic choice to reduce the politicization of the process.

Conclusion

Why should the government and sector act now – going beyond the current federal government's election commitment of addressing political issue? Because the world is changing. Charities and nonprofits cannot adapt to the needs of vulnerable people and environments without significant change in how the government works with and supports work. If left unchecked, overburdened charities will no longer be able to meet the social needs of Canadians, and possibly be forced to close their doors. The gap in demand and services will lead to a social deficit in Canada.[28]

The Government of Canada has a window of opportunity to act on key policy priorities that have emerged from decades of consultation, dialogue, advocacy and mobilization. Stakeholders in the nonprofit sector are ready to engage in a broader conversation about modernizing the policy landscape and creating an enabling environment for the sector.[29]

This is an opportune time to reflect on and articulate a new vision for the government-sector relationship and the environment in which it operates. Doing so will contribute to health and wellbeing of Canadians and a stronger, more prosperous country. Better supporting the work of charities and nonprofits can position the Government of Canada as a global leader in improving quality of life and supporting vulnerable populations here in Canada and around the world.

28 Brian Emmett (2016). "Charities, Sustainable Funding and Smart Growth." Toronto. Imagine Canada. http://www.imaginecanada.ca/sites/default/files/imaginecanada_charities_sustainability_smart_growth_2016_10_18.pdf.
29 Brian Emmett (2017). "The Social Deficit: Our Written Testimony To The Senate Open Caucus." Imagine Canada. http://www.imaginecanada.ca/blog/social-deficit-our-written-testimony-senate-open-caucus.

Notes

Notes