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Policy Matters: Unpacking the Sector's Top Policy Issues Ahead of the 43rd Federal Election

By Jillian Witt

In 2005, Jordan River Anderson, a five-year-old from the Norway House Cree Nation, died in hospital in Manitoba while the federal and provincial governments fought over who should pay for his in-home care. Anderson, who was born with multiple disabilities, never spent a day in his family home before he passed away. In his memory, Jordan's Principle requires that First Nations children receive the services they need, when they need them, regardless of government disputes over who should pay for these services. Although the Principle became federal law in 2007, a decision from the Canadian Human Rights Tribunal in 2016 found that it was not adequately implemented and that the government continued to discriminate against First Nations children.

Ongoing advocacy has been critical to improving the implementation of Jordan's Principle. The First Nations Child and Family Caring Society filed the human rights complaint, along with the Assembly of First Nations, as part of its mission to improve the safety and well-being of First Nations children. The Caring Society has organized campaigns, raised awareness, and taken legal action to ensure equitable access to services for all First Nations children. It also created resources to help navigate Jordan's Principle and, since July 2016, the government has approved more than 216,000 requests to support First Nations children under Jordan's Principle.

For many organizations, policy advocacy is inseparable from achieving organizational mission. The Caring Society is just one example of how charitable organizations engage in public policy for this reason. In the lead up to the next federal election, *The Philanthropist* will be sharing several examples from our sector that illustrate some of the ways we engage in public policy. This "Policy Matters" series will include perspectives from people like Cindy Blackstock, the executive director of the First Nations Child and Family Caring Society.

Both policy advocacy and non-profits' engagement in political activities have long been hot topics in the sector. In fact, *The Philanthropist* has released 326 articles that mention political activities since we began publishing in 1972. This new series will continue this work, underscoring our own mission to share information about public policies that matter to the charitable and non-profit sector and highlight its role in contributing to policy that impacts our social and/or environmental missions.

The rules around how charities can engage in public policy have sparked debate and discussion in government and the sector in the past few years, much of it captured in *The Philanthropist* archives. In 2012, the government allocated an additional \$8 million (later increased to \$13.4 million) in the federal budget to the Charities Directorate of the Canada Revenue Agency (CRA) specifically to audit the political activities of charities. In response, Gordon Floyd's 2015 opinion piece shares concerns of an "advocacy chill" in the sector due to this increased scrutiny and the limitations and complexities of the laws regulating charities.

Those who worried about advocacy chill found a sympathetic audience in the Liberal party following its election in 2015. Prime Minister Justin Trudeau's mandate letter to the Minister of National Revenue promised changes, including allowing "charities to do their work on behalf of Canadians free from political harassment" and "clarifying the rules governing 'political activity,' with an understanding that charities make an important contribution to public debate and public policy." This prompted many discussions within the sector about what this new relationship with government could be, and what the role of charities should be in shaping public policy.

The debate about political activity has also prompted self-reflection in the sector. In 2016, Allan Northcott and Roger Gibbins wrote about the moral imperative of charities to engage in public policy. This writing includes summaries and reflections on a gathering of charity leaders in Calgary in May 2016. As Gibbins puts it, the event pursued the following questions, "Did the case for less constrained policy advocacy by charities make sense; and was the timing right to pursue the case in Ottawa? If the Trudeau government had in fact thrown open the door for a new relationship (something that I believe) then, is the sector ready, able and willing to walk through that door?" For the most part, attendees felt the time was right to pursue legislative change.

As the sector grappled with these questions and next steps, several events occurred in tandem. In late 2016, the Government began consultations with the public and the charitable sector. A Consultation Panel on the Political Activities of Charities, composed of five experts, including Susan Manwaring, an editorial director at *The Philanthropist*, reviewed the feedback and presented a report at the end of March 2017. It recommended modernizing the legislative framework for charities and abolishing the longstanding rule that stipulated they could only devote 10% of resources to political activities. Meanwhile, the Ottawa-based non-profit Canada Without Poverty won a court challenge in the Ontario Supreme Court in July 2018 after the government threatened to revoke its charitable status. "Simply put, there is no way to pursue the Applicant's charitable purpose — using methodology that is recognized by Parliament itself — while restricting its politically expressive activity to 10% of its resources," the judge wrote. In addition, the government created a Special Senate Committee on the Charitable Sector in 2018, which has been exploring many of these issues and concerns regarding how charities engage in public policy.

New government guidelines now allow charities to dedicate as many resources as they want to engage in non-partisan political activity, as long as it advances their charitable mission. The government also

announced an Advisory Committee on the Charitable Sector (ACCS), which will be co-chaired by charity sector leaders and the CRA. The committee will be a consultative forum for the Government to engage with the charitable sector to advance and address issues as they arise.

Many of the regulatory barriers that once held charities back from engaging in public policy have been removed. But will this change anything later this year when Canadians prepare to vote in the 43rd federal election? Do charities have the skills and resources to advance their missions via policy work? Do their funders, donors, and board members support these methods? How do organizations balance the immediate needs of their clients with the long-term advantages of policy engagement?

As we observe how these changes play out, our team at *The Philanthropist* thought it was pertinent to ask individuals in the sector what public policy issues they want to see discussed during the upcoming federal election campaign. It is also an opportunity to feature individuals who are on the ground, across Canada, advancing a variety of issues their supporters care about. For some of the people and organizations featured, the new legislative changes may not be relevant because they do not have charitable status, although that status may now be of interest because the political activity restrictions have been removed. For others, their policy work may not change significantly, but the removal of barriers might signal a more open government, and in turn, bolster board and staff confidence in their role in policy advocacy.

We hope this project will highlight the broad range of issues that organizations are tackling and provide a chance for new conversations about what we want our role to be in this new environment.