



**SUBMISSION TO THE  
BOARD OF TAXATION  
CONSULTATION  
ON THE  
DEFINITION  
OF A CHARITY**

**ST VINCENT DE PAUL SOCIETY  
NATIONAL COUNCIL**



## **1 THE RATIONALE FOR AN INQUIRY**

In our submission to the Inquiry into the Definition of Charities and Related Organisations (2000) we emphasised this point:

*Any re-framing of the definition of a charity should be driven by a clear consideration of the consequences of this legislation on the charitable organisations currently in existence.*

The financial, legal and administrative consequences for these organisations will be felt by those they serve:

*the marginalised members of Australian society.*

It is this net effect on the vulnerable that should act for the Treasury as the primary criterion for drafting workable legislation.

We also note that, in the current Exposure Draft Bill, there is no treatment of the question of how PBI status is to be dealt with in the wake of the proposed legislation.

## **2 THE ST VINCENT DE PAUL SOCIETY AND THE DEFINITION OF CHARITIES**

It is difficult to imagine that any definition of “charities” could be drafted which would exclude the St Vincent de Paul Society as a either a charity or Public Benevolent Institution.

This Society’s services are provided by our 39,000 volunteers directly to the disadvantaged right across Australia.

Any concerns that we have, therefore, in regard to the Charities Bill or its consequences, are not so much with its affect on this Society but on the plethora of organisations which we work alongside with and which contribute to the common weal and public benefit.

## **3 THE MOTIVATION FOR PROVIDING SERVICES**

Our concern is that the Bill will impact adversely on the 350 or more organisations providing various services to the poor and disadvantaged; services ranging from the provision of equipment to people with disabilities to the services provided by Community Legal Centres. These are all services upon which governments and the nation are dependent.



The motivation for charitable and welfare organisations to provide services to the poor and disadvantaged are almost as diverse as the organisations themselves.

The motivation behind the activity of St Vincent de Paul Society members continues an ancient prophetic tradition to pursue social justice:

*“Learn to do good.  
Pursue justice,  
Guide the oppressed;  
uphold the rights of the orphan’  
and plead the widow’s cause.”*

(Isaiah 1:17)

This motivation is shared by some other ‘charities’. There are, however, many organisations, large and small, covered by this Draft Bill, which are not motivated by the same tradition but are equally altruistic and necessary for the common good and public benefit.

The St Vincent de Paul Society is unequivocally opposed to any legislative outcome which would see any of these organisations weakened or dissolved.

***We are opposed because it is the marginalised who will suffer the consequences of having no one to stand up for them or with them.***

#### **4 CONCERNS WITH THE EXPOSURE DRAFT**

Our concerns can be divided into two sections:

##### **a) Size**

It doesn’t matter how small or large an organisation is. It is what they do that matters.

Some are very small organisations, supported by donations from the community, and are effectively providing much-needed services to specific groups of disadvantaged people.

For example, if a group of just three people formed a small organisation to help people marginalised by the effects of a particular disease would it be fair to exclude them from charitable status just because of their size?

Numerical size is *not* a reasonable criterion for disqualification from charitable status. A numerically insignificant organisation can have enormous significance for the people it supports.



We therefore recommend:

**(Recommendation 1): That Section 7 (1)c, (2) and (3) be deleted.**

**b) Advocacy**

Advocacy is a part of our work.

The St Vincent de Paul Society has never seen advocacy as anything but *a means* to achieving the end of serving the poor.

As such we refuse to accept the false dichotomy between charitable work (“direct assistance”) and advocacy.

Our advocacy *is* a charitable work. It is not incidental or ancillary. It is at the heart of our dominant purpose:

*“Speak up for those who cannot speak for themselves,  
protect the rights of those who are helpless.  
Speak out and pronounce a sentence of justice,  
defend the cause of the wretched and the poor.”*

Proverbs 31:8-9.

In a democracy, the activity of speaking up in the interests of the marginalised should be encouraged rather than punished. It is an activity that is clearly for the common good and common weal. Australia is a better place because of this legitimate freedom.

It is noteworthy that the *Report of the Inquiry into the Definition of Charities and Related Organisations* (2001) recommended:

*“... that charities should be permitted to engage in advocacy on behalf of those they benefit. Conduct of this kind should not deny them charitable status even if it involves advocating for a change of law or policy. Submissions from both charities and governments have demonstrated that charities are increasingly asked to represent to governments the interests of those they seek to benefit and to contribute to the development and administration of government policies. The Committee considers that the definition of a charity should not prevent these developments as they represent an effective means of delivering outcomes for individuals, charities and governments.”* (p.217)

Some organisations are devoted entirely to the activity of advocacy. Some of these have arisen out of the fact that smaller organisations were unable to engage in advocacy by themselves. These peaks and umbrella organisations, such as ACOSS and COTA, should be recognised as an extension of the services provided by the smaller organisations they represent. They should certainly be regarded in the same



light as any other charitable and welfare organisation and not singled out for exclusion on the basis that their main activity is advocacy.

Quite clearly, we have no objection to the exclusion of political parties and candidates from charitable status. We are surprised that charities are lumped together with them. They are well endowed by the public purse to the tune of millions of dollars of tax-payers' money.

The concept of a "political cause" (as in: "the purpose of advocating a political party or cause" in the Draft Bill), however, is too inclusive in its definitional sweep. It may, for example, be taken to include the activity of advocating for a specific policy position (relevant to the purpose of the charity concerned) that may also be shared by one, or more, of the political parties.

We therefore recommend:

**(Recommendation 2):**           **That Section 8 (2)a be amended to read: "the purpose of advocating a political party."**

The St Vincent de Paul Society has a grave concern regarding Section 8, clause (2)c of the Draft Bill.

We believe it frames the act of advocacy negatively, as a disqualifying purpose in the assessment of whether an organisation can claim to be a charity for tax purposes. It pits 'charitable activity' against 'advocacy' as if the two were separate activities.

This model for understanding 'charities' presumes a framework in which assistance is given to the poor without in any way questioning or seeking to address the causes of their poverty. For the St Vincent de Paul Society this understanding fails to serve the interests of the poor.

We therefore recommend:

**(Recommendation 3):**           **That Section 8 (2)c be deleted.**

## **5        WHY THE RESTRICTIONS ON CHARITIES?**

It seems questionable that, in a democracy, there should be so much emphasis on restricting and controlling the charitable sector (in terms of size requirements and the practice of advocacy). There are no such restrictions and controls placed on the professional lobbying activity of businesses, large or small, all with pre-tax dollars.

What sort of nation would we be when these interests have the freedom and the resources to lobby and campaign in the public policy arena while organisations committed to the interests of the poor are subjected to punitive restrictions?

