

**ATTENTION: News Editors, Chiefs of Staff**

12 March, 2010

## ***MEDIA RELEASE***

### **Charity gets go ahead to run High Court test case**

The charity Aid/Watch has today been granted Special Leave to Appeal to the High Court giving the organisation the chance to run a historic test case to clarify the definition of a charity.

At a sitting in Sydney today, Justice Gummow and Justice Heydon agreed that there were grounds for the High Court to consider whether or not the Australian Taxation Office should have revoked Aidwatch's charitable status in 2006.

Maurice Blackburn Senior Associate Giri Sivaraman said the firm would continue to represent Aid/Watch in the test case. He said "Today the High Court agreed that there is strong public interest in determining whether an organisation that seeks to influence government policy should have its charitable status revoked. This case has widespread repercussions throughout the charity sector."

Justice Gummow did not agree with the ATO argument that this case was an 'inconvenient vehicle' for resolving the matter. The Court noted that the role of government in addressing poverty had significantly changed over the past 150 years.

Aid/Watch Chair James Goodman said the Tax Office ruling which was upheld by the Federal Court last year, had a chilling effect on public debate in the charity sector with many organisations too scared to speak out about government policy. "This affects charities from the development sector, the environment sector and the social welfare sector. It's a relief that we now have the chance to have the matter resolved."

Charities supporting the case include Oxfam, Australian Council of Social Services, Australian Conservation Foundation and Australian Council for International Development.

The cost of running a test case is significant and Aid/Watch will be making an application to the Australian Tax Office for assistance to run the test case and for indemnity in the event that there is an adverse cost finding made against it.

The case is likely to be heard later this year.

#### **BACKGROUND – THE LEGAL FIGHT TO DEFINE A CHARITY**

Aid/Watch is an independent membership-based watchdog on aid, trade and debt, working with communities in the Global South. This week's hearing on whether an organisation is defined as a charity affects an organisation's tax-exempt status as well as the tax deductibility of donations it may receive. It also affects whether or not it can receive funds from charitable foundations.

#### **CHRONOLOGY**

**October 2006:** the Australian Tax Office disqualified Aid/Watch as a charitable organisation arguing it was engaged in political activity. Aid/Watch appealed this decision to the ATO arguing that it was a charity with the aim of alleviating poverty. The ATO decision was affirmed. Aid/Watch and other charities say the case would have a devastating ripple effect throughout the charitable sector.

**July 2008:** Maurice Blackburn agrees to assist Aid/Watch to take the case to the Administrative Appeals Tribunal. President, Justice Downes, overturns the ATO's decision.

**February 2009:** ATO appeals to the Federal Court of Australia.

**22 September 2009:** The Federal Court handed down a judgement in favour of the ATO and Aid/Watch announces its intention to seek Leave to Appeal to the High Court.

**12 March 2010:** High Court decides Aid/Watch is to be granted special Leave to Appeal.

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