
New Series: Canadian Charities Working Internationally

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This article is the first in a [series](#) on Canadian Charities Working Internationally.

A regulatory system, and the laws that underpin it, is ideally enabling but by necessity limiting. It's true in business, and it should be equally true with charities. What is, however, the right balance between support and limits?

When working across borders, Canadian charities strive to provide public benefit, but to do so they need to navigate distance and complex operating environments, which may include the threat of graft, corruption, or terrorism. A charity conducting its own charitable activities internationally faces a clear regulatory obligation: the need to maintain “direction and control” over its resources and charitable activities. Canada has developed these rules through the Income Tax Act, case law, and Canada Revenue Agency (CRA) administrative positions over the last 40 years. There is a widening gap between what CRA requires and what charities need to operate effectively and appropriately. The fundamental challenge is how to develop a system with oversight and reasonable limits that does not inhibit charities from being effective and ethical in carrying out their charitable purposes internationally.

Over the next three months, *The Philanthropist* will post a series of articles entitled “Canadian Charities Working Internationally” that will explore the Canadian “direction and control” rules and their implications. The series includes articles on the history of Canadian international charities, interviews with key players, summaries of the rules in our own and other jurisdictions, book reviews, opinion pieces – including a comment on how our rules are hostile to Canadian-headquartered international NGOs – and a suggestion for how Canada might modernize its approach to regulation of international charitable activities. In a balanced fashion, we hope to promote greater understanding of our system and how it may evolve.

How big is the gap between the regulatory system and the philosophy of charities operating internationally? The following two quotations provide some indication:

1. “The Canada Revenue Agency (CRA) requires that a charity take all necessary measures to direct and control the use of its resources when carrying out activities through an intermediary. When carrying out activities through an intermediary, the following steps are strongly recommended:

- Create a written agreement with the intermediary, and implement its terms.
- Communicate a clear, complete, and detailed description of the activity to the intermediary.
- Monitor and supervise the activity.
- Provide clear, complete, and detailed instructions to the intermediary on an ongoing basis.
- Arrange for the intermediary to keep the charity’s funds separate from its own and to keep separate books and records.
- Make periodic transfers of resources, based on demonstrated performance.”

2. “Partnerships should be vehicles for long-term accompaniment that supports the right of peoples to determine and carry out activities that further their own development options through their civil society organizations;

Partnerships embody equity. Acknowledging that inequalities often exist as a result of power dynamics, especially in funding relationships, partners should strive for equitable partnerships; Partners should respect one another’s autonomy and constraints and strive to foster a climate of mutual trust in all their partnership activities.”

The first quotation is from CG-002, the CRA Guidance entitled [“Canadian Registered Charities Carrying Out Activities Outside Canada”](#). The second is from the [Code of Ethics and Operational Standard of The Canadian Council for International Co-operation \(CCIC\)](#), the leading network of Canadian charities and civil society organizations operating internationally. The gap is philosophical and deeply rooted. CRA requires the Canadian charity to be in the driver’s seat of charitable activities overseas – providing remote control over the work as well as the funds. CCIC seeks solutions that are rooted in the knowledge and experience of the local community. The presumption of CRA’s “direction and control” is that the Canadian charity, no matter how small or distant, should dictate the charitable activities and how they are carried out. This goes beyond safeguarding public money. It is a philosophy that many Canadian charities operating internationally view as undesirable, impractical, and unrealistic.

The popular perception of Canadian charities working internationally is development work in low-income countries and humanitarian disaster relief. While these are essential activities, they represent only a part of Canadian international charities. There is little awareness of, for example, missionary charities; universities or zoos that engage in international research projects; environmental organizations; "friends of" charities that raise funds for hospitals, universities, museums, and other foreign charitable entities; human rights organizations; heritage organizations; or even private foundations that conduct direct charitable activities abroad. There is also little appreciation of the enormous range of size, sophistication, and international connectedness of Canadian charities.

The practical challenge for Canadian charities working abroad is that the laws and administrative policy don't represent or support this diversity of purpose and capacity. The "direction and control" rules arise from a mindset that is unintentionally imperialist and parochial. The rules are best suited to discrete projects and small organizations. Is it realistic for a Canadian registered charity set up to fundraise for a foreign hospital or museum to "direct and control" the care and research or exhibitions of the intended recipient? Is it realistic for a Canadian branch of an international NGO to "direct and control" the activities of a parent entity or a federation that is guided by sophisticated internal governance and operations? And is it consistent that certain foreign institutions, such as the selected international universities listed on Schedule VIII of the ITA, can receive donations directly from Canadians and need only to provide minimal reporting to CRA?

Our system demands Canadian-dictated solutions and Canadian control over programs in the name of protecting tax-supported expenditures. The danger is that we have a set of rules that can be rigorously enforced as they apply to small charities with narrow charitable purposes and activities but become toothless and incoherent when applied to large NGOs. The rules assume a model of charity that isn't the norm in an increasingly complex and connected world.

Canada is a country with high immigration and a proportionally large foreign-born population. Our citizens have strong ties to countries across the globe. Our nation encourages access and inclusiveness at home. Despite recent heightened concern about terrorism, Canada is becoming more engaged internationally. We hope this series on "Canadian Charities Working Internationally" will generate debate, reflection, research, and education on how we can ensure our regulatory framework is supporting effective charitable outcomes as well as safeguarding resources.

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