

PROTECTING PEOPLE WORLDWIDE

RISK AND INSURANCE FOR MISSIONS, RELIEF AND DEVELOPMENT ORGANIZATIONS

Introduction

Dorothy's famous observation to Toto "I've a feeling we're not in Kansas anymore" often sums up the initial reaction of those experiencing the developing world for the very first time. In North America we live in a bubble of relative economic stability, social peace and the rule of law; an existence that is unknown in most of the developing world. Global travel and foreign missions can be an exciting opportunity filled with adventure and life-changing experiences. For those who serve as directors, employees, missionaries and volunteers on behalf of relief and development organizations, it can be even more rewarding to have the added opportunity to put Christian faith into action by spreading the gospel and doing charitable work in societies facing chronic civil unrest, social injustice, crop failures, famine and health epidemics.

Unfortunately the usual rules don't apply outside of North America, particularly in developing countries, and insurance is no exception. Whether you are the leader of a large relief and development organization operating throughout the world, or a small local church congregation with a modest foreign missions budget and individuals who want to give of their time and talents in short-term mission projects, there is a high duty of care for protecting your people. It is important to clearly understand and address the unique risks to your organization, personnel and board members.

Claims and Lawsuits against Canadian Churches and Missions Organizations

- Resident in a children's orphanage in Africa operated by a Canadian Christian charity obtains landed immigrant status in Canada as an adult and sues the organization and its executive director for alleged abuse
- Teenager from the United States volunteering with a Canadian church on a missions outreach team in Europe is injured as a passenger in an automobile accident and sues the church and its board members
- Adult on a mission trip involved in building homes in Central America suffers a heart attack, is airlifted to the nearest country with a specialty cardiology unit, incurs over \$200,000 in uninsured medical bills and sues the sponsoring organization out of financial hardship
- Teenager on a short-term missions trip falls from a hotel balcony in the Caribbean, resulting in quadriplegia and launches multi-million dollar lawsuits against the sponsoring organization, the church and its leaders on the trip for inadequate supervision and unsafe conditions

Short-term Missions versus Career Missions

There is a world of difference between participants in a short-term mission trip and missionaries, whether individuals, couples or families, who have committed to serving in the

mission field long-term or for a lifetime. Volunteers on short-term mission trips, whether adult or youth, are often adventure-seeking, unaware of the full risks, have a lower level of commitment to the organization and the cause, and because they are returning to their regular life after the trip to families, jobs or school, there is a much greater likelihood that they, or their dependents, will sue the sponsoring organization and their leaders in the event of injury, sickness or fatality.

A Word or Two about Minors and Short-term Mission Trips

After the Second World War, organizations such as "Outward Bound" popularized the concept of experiential learning and development through world travel for young people placed in challenging, adventurous outdoor situations who gained confidence, redefined their own perceptions of their personal possibilities, demonstrated compassion and developed leadership skills and a spirit of camaraderie with their peers. Many faith organizations today seek to involve young people in global missions work to provide them with similar travel, leadership and spiritual development opportunities. Global missions are exciting, life-changing and a means of putting faith into action, but it is important to remember that it is not the same as a trip to Epcot Centre! Witness the liability which groups of young people or students have sometimes become in the midst of civil unrest or a natural disaster, such as the earthquake in Haiti, requiring emergency evacuation, drawing resources away from victims and sometimes resulting in participants and their families suing the sponsoring organization for mental anguish allegedly suffered by their teenaged children on the trip.

We generally recommend against participation by minors in these trips for four reasons:

- i) Liability waivers or releases signed by minors, or on their behalf by parents or guardians, are generally unenforceable in a civil court;
- ii) Organizations who have abuse prevention plans and liability insurance coverage for abuse claims sometimes find it difficult, if not impossible, to enforce the screening measures, two-adult rules and other provisions of their prevention plans required to maintain insurability;
- iii) Difficulty in obtaining liability insurance protection for organizations and their boards for trips that involve minors in unregulated construction and renovation projects, or in higher-risk activities associated with Christian-oriented adventure/missions tours; and
- iv) The reality that young people by their very nature are often adventure-seeking, risk-taking and oblivious to the hazards posed by being in a completely different environment than their own home communities, thus requiring an extremely high duty of care for continuing supervision of their safety often beyond the capabilities of many smaller organizations and their leaders.

Organizations that do seek to include minors because they consider their participation crucial in short term mission work should be cognizant of these legal, insurance and practical challenges and limitations. Some churches and charities that allow participation by minors do so only within a family setting with the formal understanding in a formal, signed consent and assumption of risk that they will be at all

times in the care and legal responsibility of a parent or guardian on the trip.

The trend toward "church to church" missions, rather than through the traditional safety net afforded by intermediaries such as national denominations and international charities, can place a great degree of administrative, regulatory and fiduciary responsibility on local church leaders. It is our hope that the following will assist you and your organization to better understand the risks associated with missions, relief and development work outside of Canada, including tips on what kind of insurance protection is available to better protect your people worldwide and to protect your leaders from lawsuits.

Injury and Liability Risk

Whether staff and volunteers are participating in volunteer construction, agricultural and relief work teams or simply riding in automobiles and other forms of transportation such as chartered aircraft and ferries, the sponsoring organization is potentially liable for injuries and fatalities to its workers.

An often overlooked but critical insurance question for many churches and charities is whether your organization's liability policy covers sponsored programs, activities and events that take place outside of Canada. Most insurance policies issued by Canadian insurers contain a policy territory restriction that limits coverage to claims that occur within Canada and the United States, or limits coverage to employees temporarily outside of Canada while acting within the scope of their duties. It is highly recommended to ensure that you have both a General Liability policy and Directors & Officers Liability policy that include a full worldwide policy territory for your organization's temporary or permanent operations outside of Canada.

The primary concern is that an accident or injury to one of your participants or to a foreign national that occurs outside of North America may result in a liability action against your organization in a Canadian or U.S. civil court. The reason for this is that much of the rest of the world, especially developing countries, lack civil liability court systems. Moreover, the potential awards available in North American courts are substantial and attractive as evidenced in the lawsuits arising from the Bhopal, India gas disaster in 1984 that resulted in class-action cases by victims against Union Carbide in the United States and which have been used as a precedent in suits against corporations and not-for-profits in their home jurisdictions, including abuse claims in foreign orphanages run by North American charities.

The subject of physical and sexual abuse is a vitally important liability issue for church and mission organizations. The growing commitment to abuse prevention is evidenced by the fact that the percentage of children's and youth-serving ministries in Canada who have implemented abuse prevention plans has grown from less than 5% in 1995, to over 70% today. There are only a handful of insurance companies in Canada that provide abuse liability coverage for charitable organizations. Although it is possible for relief and development organizations to qualify for this type of insurance protection for their short-term programs if they have acceptable prevention plans in place, they are not usually eligible for abuse liability coverage if they own, operate or manage orphanages or other residential care facilities outside of Canada.

Unfortunately it is virtually impossible to impose the same level of screening, oversight and prevention procedures in foreign residential care facilities as in Canada in order to meet the minimum risk management requirements of insurers. For this reason many Canadian charities do not operate these facilities directly, choosing instead to support residential care facilities through foreign non-governmental organizations (NGO's) operating in those countries.

Health and Medical Risk

There are a wide variety of health and medical concerns that should be addressed when contemplating short-term or long-term travel or residency outside of Canada, including:

- a) Check with the Public Health Agency of Canada www.publichealth.gc.ca for information on travel health notices, clinics, travel booklets and recommended immunization for tropical and infectious diseases for your group, including diseases that may be rare or non-existent in Canada, including:
Malaria, Dengue Fever, Yellow Fever, Cholera, Meningococcal, Influenza strains, Avian Flu, Polio, AIDS/HIV and Hepatitis A and B.
- b) Carefully screen missionary candidates, work teams and other short-term mission volunteers for pre-existing medical conditions and food and any food or drug allergies, in order to avoid placing individuals in potentially life-threatening medical emergencies in locations where there may be strenuous work projects, extreme weather conditions, high altitudes and only limited health care available. This can be done through an application process that asks detailed questions and also requires informed consent from the applicant with respect to the dangers of travel to the proposed destination, along with a release of interest and waiver of legal liability against the organization and its directors and representatives.
- c) Have each participant obtain permission from their doctor for the trip and ensure that they have taken the appropriate vaccinations and medications as prescribed for preventable diseases, in advance of the trip.
e.g. Antimalarial drugs, Twinrix (Hepatitis A and B), Tetanus/Diphtheria and Typhoid vaccines
- d) All participants should complete and sign an application in advance which includes the following:
 - An informed consent clearly advising them of the health injury and security risks associated with foreign travel to the particular destination(s) for their proposed trip.
e.g. "risk of death or injury from violence, civil unrest, abduction"
"risk of sickness or disease from influenza, malaria, cholera ..."
 - An assumption of risk and waiver of liability to protect the organization and its directors and officers for any bodily injury or damage suffered by the participant due to the inherent risks and conditions that are beyond the control of the sponsoring organization.
 - A parent permission and informed consent for any minors participating in the trip.

Note: Waivers and releases signed by (or on behalf of minors) are legally unenforceable.

- e) Mandatory Travel Medical Insurance for all participants in order to provide no-fault benefits and reimbursement of expenses for catastrophic bodily injuries, sickness or death suffered outside of Canada, including medical and dental expenses, prescription drugs and treatments, emergency medical evacuation, repatriation and trip interruption and cancellation. Out-of-country (and out-of-province) medical expenses incurred by travelers are often not covered, or are limited, by provincial health insurance plans. The cost of traumatic injuries, heart attacks and strokes can involve significant uninsured medical, emergency evacuation and repatriation expenses that can place a heavy financial strain on the families of injured persons and the survivors of deceased family members. This burden can also cause those affected to be placed in the unwanted position of having to resort to legal action against the organization and its leaders to avoid personal bankruptcy or financial hardship by seeking to recover these costs through civil damage awards or settlements. Proof of Travel Medical Insurance by each participant should be submitted with their application, or by coordinating coverage on a group basis with your trip travel agent/insurer for ease of administration and to ensure an adequate minimum level of coverage for all participants. This type of coverage is available through Blue Cross, TIC and other private insurers who specialize in out-of-country protection.
- f) Emergency first aid supplies should be carried with your workers that is appropriate to the regions and conditions in which you are operating.
e.g. Epi-pens for use in case of severe or life-threatening anaphylactic reaction to food, insects, etc., anti-venom supplies in liquid or freeze-dried ampules for poisonous bites and stings and sterile disposable hypodermic needles for use in case of emergency medical treatment in local hospitals and medical clinics.

Remember! In developing countries, hospitals or clinics could be hours or days away and the healthcare and medical supplies provided may be inferior or non-sterile by Western standards. The incidence of HIV/AIDS in many sub-Saharan African countries exceeds 25% of the general population (including medical workers) making blood transfusions potentially unsafe.

Safety, Security and Political Risk

One of the most important responsibilities for charities operating outside of Canada, whether utilizing permanent staff or through short-term missions teams, is to demonstrate due diligence in ensuring the safety of employees and volunteers. Although it is virtually impossible to guarantee safety in an ever changing world, there are several ways in which you can reduce the risk of harm to your representatives abroad, including:

- a) Check with Foreign Affairs and International Trade Canada (DFAIT) www.travel.gc.ca for Travel Reports and Warnings summarizing current safety and security issues in countries worldwide, including local laws and customs, entry requirements, health and other important travel information before planning or leaving on a trip. Countries with an asterisk (*) are currently subject to a Travel

Warning, meaning that Canadians should either avoid non-essential travel to that country or specific regions within that country, as follows:

- Level One – Exercise Normal Degree of Caution
- Level Two – Exercise High Degree of Caution
- Level Three – Avoid Non-Essential Travel
- Level Four – Avoid All Travel

Generally speaking, unless your organization is supported and secured by an NGO or government organization in the field, you should not be sending volunteers into countries or regions with Level Three or Level Four Warnings and should only be sponsoring trips to countries or regions with Level Two Warnings if you have qualified, experienced leaders in those regions. Failure to do so can result in undue legal liability in the event of death or injury to a participant and may even impact their coverage eligibility for travel medical and trip cancellation insurance under the conditions of the policy.

- b) Register your group online with DFAIT in advance of your planned trip so that Canadian government and consular officials can locate, contact, assist or evacuate your group in the event of an emergency in a foreign country, such as a natural disaster, civil unrest or family emergency at home.
- c) Create a formal emergency and evacuation plan with key medical, transportation, security and consular contact information for trip leaders and for your leaders at home.
- d) Partner with other charities, government or international agencies who are already operating in the field and who have experienced personnel who can guide your organization and its representatives. This kind of local insight, guidance and help with transportation is invaluable in protecting your workers because often it is simply avoiding the wrong people, the wrong places, the wrong kind of vehicle, the wrong kind of dress or simply being in a public place at the wrong time of day that can make all the difference between safety and harm.

It is also unfortunate but true that there are increasing personal security and political risks associated with relief, development and short-term missions work in many parts of the world. At one time personal security was only a concern for high profile political figures and the executives of multi-national corporations. However in the past decade even executive directors, aid workers and volunteers representing non-profit organizations (NGOs) have been targeted by insurgency groups and petty gangs for political purposes or monetary gain through ransom demands.

Although much of the world's attention is focused on obvious trouble spots such as Afghanistan, Iraq, Somalia and Haiti, the threat of kidnap, ransom and extortion is prevalent throughout much of Africa, Latin America and parts of Southeast Asia and the former Soviet Union. This risk is found in both remote rural areas and also in the highly urbanized areas of more developed countries. According to the Clayton Report, one of the leading monitoring organizations for executive risk, large cities such as Mexico City, Bogota, Sao Paulo, Johannesburg and Moscow are major trouble spots for kidnapping. Following is a list of the top ten countries with the highest number of reported kidnappings, according to the Control Risks Group, a consultancy company specializing in kidnap and ransom risk:

- Brazil
- India
- Russian Federation
- China
- Malaysia
- Columbia
- Mexico
- Venezuela
- El Salvador
- Philippines

Insurance protection is available through a handful of specialty companies in Canada and the United States for kidnap, ransom, hijack, wrongful detention, extortion, consultant costs and related expenses. The premiums are based on the limit of coverage desired for ransom indemnity, the number of persons to be insured, frequency of travel and the location of operations.

Nonprofits and charities often have two primary concerns about purchasing Kidnap and Ransom (K & R) Insurance:

1. A religious and philosophical objection to paying ransom in certain situations, or having a strict "no-ransom" policy in any and all situations. This concern can often be alleviated by understanding that the organization does not have to pay a ransom if they choose not to. There are also lower cost K & R policy options that provide indemnity for consulting, crisis management and negotiation costs only, with no ransom coverage.

A consultant will typically respond to an incident and provide advice to the client organization, based on their experience and expertise. The client organization is the final decision maker and can choose to accept or reject the advice. Consultants and independent negotiators are often successful in securing a positive outcome with no ransom paid. Also, ransom is not always bags of cash changing hands as portrayed in movies. Ransom can also be the negotiated settlement of services for types of work that the client organization was going to do anyway, such as building wells, schools, medical clinics, etc. The insurance policy proceeds can be used to reimburse the client for the additional costs of these negotiated services.

2. Non-profit organizations sometimes believe that purchasing a K & R policy will make their organization and workers more of a risk as a target for an incident. This is completely untrue. First of all, very few people in the organization should even know about the coverage. Great care is taken by both insurance companies and client organizations to keep the existence and details of coverage strictly confidential. Secondly, criminals will kidnap for money with no thought whatsoever about insurance. The "bad guys" don't care whether or not an organization or family has insurance – they will get their money. The perception, rightly or wrongly, is that foreigners from Western countries are wealthy and are legitimate targets.

Conclusion

Although this is not a complete summary of risks and insurance considerations, we hope that it has provided an introduction and general overview to assist your organization's leaders in identifying, eliminating, reducing and transferring many of the most common risks associated with missions, relief and development operations outside of Canada. For more information regarding the special coverage features available for church, missions, relief and development organizations through Robertson Hall Insurance Inc., please contact one of our knowledgeable broker representatives.