

5-Point Checklist of Best Practices for Short-term Mission Trips

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If your church or charitable organization is sponsoring or supervising mission trips outside of Canada, there exists a high legal duty of care on the part of your leaders (including directors, officers, administrators and trip leaders) for the health and safety of workers while at, and travelling to and from, those destinations. This duty and the potential for legal liability has always existed under common law in cases where an employee or volunteer has suffered bodily injury or a fatality, has been the victim of a crime or kidnapping, or has acquired a serious illness or infectious disease, while acting within the scope of their duties abroad.

The kidnapping of a Christian charity worker in Sudan involved extended captivity for over 3 months, and fortunately her eventual release. However it also resulted in her lawsuit seeking significant civil damages against the organization and its directors based on their allegedly willfully ignoring warning signs that abductions were a threat to foreigners in that area and thereby placing her in a dangerous situation and as a result, suffering severe mental anguish during and since the kidnapping. The threat of kidnapping, including an epidemic of express kidnapping, has also become rampant in various parts of the world, including Central America, Eastern Europe and southern Africa.

Another serious risk to be considered by mission-sending organizations is the proliferation of terrorism and terrorist groups throughout the world, including

in countries and regions previously considered low or moderate risk, such as recent attacks during the past year in Tunisia, Mali, Burkina Faso, Kenya, Nigeria, Egypt, Somalia, Turkey, Ukraine, The Philippines, Indonesia, and others, underscoring the threat to aid and missionary workers as targets of radical groups during travel and work throughout the world on behalf of their church or charity.

The tragic death of four short-term church missionaries from Michigan when their van plunged over the side of a mountain in Haiti in 2013 was a reminder of the much higher risk of transportation injuries in developing countries due to poor road conditions, vehicles, driver licensing standards and vehicle age and safety condition, often including a complete lack of operable seatbelts, airbags and safety inspections. For a complete overview of the risks associated with missions, relief and development travel abroad and practical tips to keep your staff and volunteers safe, refer to our Protecting People Worldwide article.

The traditional common law Duty of Care for workers has now become even more paramount here in Canada with recent amendments to Bill C45, also known as the Westray Bill. Under the provisions of the amended bill, there is the potential for criminal liability against an employer, such as a mining resources company operating with Canadian managers and employees abroad. However provisions also potentially apply to charities or nongovernmental organization who sponsor

and send staff and volunteers abroad on missions, relief and development programs. This is because the wordings and definitions contained in amendments to this federal workplace safety legislation now define employer organizations more broadly to include “associations of persons”, and the term “work” is now more broadly interpreted to include “tasks”, potentially including those of a volunteer nature being carried out across Canada and throughout the world, whether by a corporation, a non-profit or a charity. In essence, the provisions contained in these amendments have extended the concept of the “workplace” beyond the four walls of the place of work or physical location of the organization. In cases of gross negligence where employees or volunteers are placed in a dangerous or extreme situation while carrying out their work on behalf of the organization anywhere in the world, both the entity and its directors can be deemed criminally culpable under the law. The emergence of this potential for criminal liability is a wake-up call for many employers and organizations utilizing either paid or volunteer workers to advance corporate objects, programs, ministries and missions and has underscored the importance of their directors demonstrating both the proper civil liability Duty of Care and Bill C-45 compliance.

Following is a 5-Point checklist of short-term mission trip risk management “best practices” to avoid unnecessarily high risk to the personal safety of your mission participants and exposing your organization and board members to lawsuits:

1



Proof of out-of-province / out-of-country Travel Emergency Medical or Expat Health Insurance coverage with no exclusions for travel destination(s) or for known preexisting medical conditions.

2



All individuals must check with their family physician to receive recommended inoculations/medication for destination(s) and to confirm that their medical history and/or pre-existing medical conditions do not prevent them from safely travelling to or from those destinations, while at those destinations, and while participating in proposed travel activities.

3



Government of Canada

Our leaders check with the Government of Canada (Global Affairs Canada) website for the current travel advisories and warnings for the intended country/region of travel, right up to the date of departure. We do not sponsor missionaries short-term mission trips or ministry travel in countries or regions with a Level 4 warning (i.e. AVOID ALL TRAVEL). We also do not sponsor short-term mission trips in countries or regions within any country with a Level 3 warning (i.e. AVOID NON-ESSENTIAL TRAVEL) or a Level 4 warning (i.e. AVOID ALL TRAVEL). <https://travel.gc.ca/travelling/advisories>

4



All individuals sign an Informed Consent form clearly disclosing the specific medical, climate and personal safety risks associated with travel to the proposed destination(s) outside of Canada (including risks of transportation and work to be performed), and a Waiver of Legal Liability releasing the organization, its directors, officers, employees and trip leaders, from any legal liability for personal injury or property damage arising from those risks that are beyond the control of the organization and its leaders.

5



For any participants on sponsored short-term mission trips or other travel outside of Canada who are minors (i.e. under the age of 18 years old) our organization obtains Parental Permission and Child Travel Consent Letters, arranges for a trip leader/participant ratio that is appropriate to the age of participants, and ensures that the screening of trip leaders and the supervision of minors while on the trip is fully in compliance with our organizations' abuse prevention policies and procedures. This includes full supervision of minors during designated off-days for recreation or side tours and we do not allow billeting minors in unscreened private homes.

NOTES ABOUT MINORS AND SHORT-TERM MISSIONS:

The safest way of sponsoring mission trips with minors as participants from a legal and insurance standpoint is to require that children and youth under the age of majority remain at all times in the care of their parent or guardian during the trip. More and more organizations are starting to do this, where the focus is on a family-based outreach with children accompanying and in the care of their parents, especially adults who have real and practical skills to assist in mission, relief and development work.

The recent and tragic case of a Canadian teenager on a mission trip to the Dominican Republic who suffered a fall from balcony where the group was staying and is now quadriplegic, resulted in a \$17- million dollar lawsuit against the sponsoring church, mission-sending organization and trip leaders, due to a lack of supervision. Another example of a potential liability associated with youth travel came to light when groups of teens and students on sponsored trips from Canada and the U.S. were caught in the midst of looting, violence and adverse health and safety conditions in the aftermath of the 2010 earthquake in Haiti. Those groups had to be evacuated on a priority basis using valuable resources ahead of victims and furthermore, many of the parents held the sponsoring organizations legally responsible for the mental anguish suffered by their children. These and other examples have resulted in a re-thinking of children being placed in potentially dangerous destinations and situations by schools, non-profits and charities and have brought into sharp focus the high duty of care and legal realities associated with sponsoring travel with minors.

Following are important legal and practical considerations for your board members to keep in mind if you are sponsoring mission trips with youth:

- Many North Americans do not fully understand the realities, challenges and conditions in the developing world. As parents, they often have unrealistically high expectations of the duty of care of an organization and its leaders for the care of their children and are likely to sue those organizations and their board members for anything that may happen to their children on such trips, especially for serious or permanent injuries.

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- However well-meaning and accepting a family may be regarding the risk of their child being injured, killed or acquiring a life-threatening tropical or infectious disease while on a mission trip, and however much they may not have any intention beforehand to sue the organization, the reality of a child requiring extensive medical care or suffering permanent damage for the remainder of their life will often cause a change in heart and/or simply force parents toward a legal recourse in order to avoid financial hardship, burden or personal bankruptcy for the long-term care of their injured or disabled child.
- A waiver signed on behalf of a child by their parent or guardian is generally considered legally unenforceable! One party cannot sign away the legal right of another and even if a parent supports the organization and may hold a great deal of influence over their child as a minor, once that child reaches the age of majority, they will in any event be able to take legal action against the sponsoring organization in their own right.
- Sponsoring organizations and their leaders sometimes do not fully understand their legal duty of care for minors, especially in light of the implications of Bill C45. It is a huge responsibility for a group of volunteer trip leaders to provide sufficient supervision for risk-taking and adventureseeking teenagers. Trip leaders may lack the resources, experience and expertise to deal with all of the situations they can potentially face in the developing world. A recent example of this was the case of a youth worker on a week-long mission trip who suffered a severe neck injury while participating in a recreational activity on the group's fun day off, resulting in a multi-million dollar lawsuit against the organization and its leaders for a lack of supervision.
- From a practical standpoint it is often difficult for sponsoring organizations to operate mission trips involving minors in compliance with the legal and insurance obligations under their own abuse prevention plan, such as full screening of trip leaders, a "two-adult" rule, avoiding billeting in unscreened host family residences abroad and all of the other policies and procedures the organization has committed to in order to qualify for full liability protection. This lack of compliance may invalidate their liability coverage for actual or alleged abuse claims occurring on mission trips within or outside of Canada, whether the alleged victim is a minor on the trip or a foreign national child participant in a program, ministry or event sponsored by the group.
- There is great value for young people travelling abroad in terms of their personal, spiritual and life skills development, whether it be with parents, through school or with other organizations, especially when it involves faith in action. Ultimately, however, your organization's leaders must weigh whether the benefits of advancing your programs, ministries and charitable objects to those you are trying to reach in the mission field by including minors are worth the risk, high level of care and qualified supervision required to keep minors safe on sponsored trips to higher risk locations or involving higher risk activities.

We hope this checklist helps to provide your leaders with practical tips and insurance solutions to help meet your Duty of Care and to keep your short-term mission participants safe, including trips involving children or youth.