



Canadian Private and Public Foundations and International Activities

By Mark Blumberg (June 10, 2008)

The world is changing. With globalization many Canadian private and public foundations are wondering how they fit in with these changes and what they can do to help others outside of Canada.

Although it is hard to know exactly from available material, it appears that although Canadian operating charities (charitable organizations) conduct a large amount of international work, Canadian public and private foundations do very little funding of projects or direct charitable activities in the international area.

For example, according to Philanthropic Foundations Canada, its 90 private foundation members in 2004 and 2005 reported that “international” activities accounted for about 1% of total grants (<http://www.pfc.ca/>). When you factor in “international” funds used for projects in Northern countries, one realizes that the amount spent on humanitarian assistance and international development may be as low as about 1/3 – 1/2 a percent of total spending by private foundations.

Also in September 2007 Esperanza Moreno and Betty Plewes wrote an article: “*Thinking Globally? Canadian Foundations and Trends in International Philanthropy*”, in which they discuss the very limited Canadian private and public foundation involvement with international activities. In their article they cite three reasons that Canadian foundations are not involved more with international grants and activities, namely legal framework (limited scope of legal objects and Canada Revenue Agency rules), mindset (give to local community, lack of international awareness), and capacity (lack staff, lack of international experience, and lack of support). The article appeared in The Philanthropist in September 2007 and can be found at: http://www.ccic.ca/e/docs/002_voluntary_sector_2007-10_intl_foundations.pdf

Some private and public foundations have no interest in operating outside of Canada and this article is not geared toward explaining to them the importance of international activities. This article will try to assist Canadian private foundations and public foundations interested in conducting international activities. My experience shows me that most public and private foundations are not aware, or are misinformed about, the rules and opportunities with respect to conducting foreign activities.

Preliminary Matters

One should consider first whether the objects permit certain types of activities or whether the donor/settler imposed any conditions on the funds or gift.

Objects

When many foundations were set up they had a traditional foundation object something like:

To receive and maintain a fund or funds and to apply all or part of the principal and income therefrom, from time to time, to charitable organizations that are also registered charities under the *Income Tax Act* (Canada).

If this is the only object of the foundation then the foundation is limited, unless it changes its objects, to funding Canadian charitable organizations that are qualified donees, which includes Canadian registered charities that conduct foreign activities such as international development and humanitarian assistance.

Some foundations have other objects in addition to the traditional foundation object, such as: "To relieve poverty in developing nations by providing food and other basic supplies to persons in need." This object allows the foundation to conduct its own activities. Some foundations have broadened their objects and most of the foundations that I am involved in setting up are not limited to the traditional foundation object clause anymore. The legal objects are usually found in the trust declaration or the letters patent of the private or public foundation. They should be reviewed before any grantmaking, local or international, is contemplated.

Donor Restrictions

With some public and private foundations the donor/settler may have specifically placed a restriction attached to a donation to the private or public foundation, and these restrictions need to be observed and could preclude the funds from being spent outside of Canada or may restrict the funds to a purpose in a community, etc.

How can Canadian Public and Private Foundations become involved in international activities?

There are essentially four ways that a Canadian public foundation or private foundation can support international activities:

1) Support Qualified Donees conducting International Activities outside of Canada

In this option, a Canadian public or private foundation can grant funds to a Canadian charity such as Save the Children, Doctors Without Borders Canada (MSF), Care Canada, Canadian

Crossroads International, etc. that conducts international operations. In fact, Canadian public or private foundations can grant funds to any qualified donee and that definition includes for example the United Nations and certain prescribed foreign universities.

Before one can begin work, one needs to look at the legal objects of the charity to see what they allow. Secondly, are there any donor restrictions on the funds in the foundation?

If the private foundation has a “standard” foundation clause and there are no donor restrictions, then the foundation generally can fund international activities by granting funds to Canadian qualified donees.

The advantage of this approach is that the public or private foundation is supporting an established organization that has a track record of delivering programs internationally. Another advantage is the variety, experience, capacity, knowledge of the thousands of Canadian charities who are currently conducting activities outside of Canada. Yet another advantage is that it is simple. In its simplest form it may involve the Foundation board approving the grant and a cheque being written. Although one can have an agreement, there is no need for an agreement. Yes, this could be as part of a deliberate multi-year strategic plan or it could be in response to a disaster you see on television.

2) Support Qualified Donees conducting work related to International Activity inside Canada

Public engagement and education of Canadians or capacity building or networking conferences held in Canada can all be useful ways of supporting international work.

Although some would prefer to live in a world where they imagine that problems in developing countries are caused exclusively by military dictatorships, poor governance in the developing world, fraud and corruption, and a lack of work ethic, in fact many of the actions we undertake in Canada have a profound impact on those in other countries. Our overconsumption; dumping of excess supply of goods when we feel like it in other countries; profiting from sweat shops; money lending to brutal dictators and then demanding payment after the dictators fall; shipping of our environmentally contaminated garbage to developing countries; mining activities conducted by Canadian companies that are neither sensitive to the environment nor providing any local benefit; efforts by Canada to undermine use of generic drugs in developing countries; luring doctors, nurses and other medical professionals from countries dealing with severe disease burden because “we have a shortage of family doctors”; – well I think can argue that these sorts of activities have some effects on developing countries that are not positive. Canadians need to learn about their involvement with this world we live in – we do some good and some bad. We can certainly do better.

Esperanza and Plewes note that

When we think about foundations, we think mainly about their grantmaking, but in fact foundations’ activities often go well beyond that to include important roles in convening, networking, developing and disseminating knowledge, and providing leadership on key community issues. There is a worldwide movement to strengthen philanthropy and

develop its institutional capacity, both at the level of individual nations and at the global level.

There are many Canadian charities and foundations conducting important “public engagement” activities in Canada.

An example is The Walter & Duncan Gordon Foundation, which has created a Global Youth Fellowship. \$20,000 will be provided to each fellow to support initiatives that educate young Canadians about key international aid, security and development challenges.

3) Work directly with organizations outside of Canada that are not qualified donees

Through structured arrangements, either agency, joint venture, cooperative partnerships, contractor agreements or their own employees, Canadian public and private foundations that have the appropriate objects may conduct their own activities abroad. In the parlance of US foundations these are “direct charitable activities” carried on through an intermediary.

For a detailed discussion on legal, ethical and practical issues for Canadian charities operating abroad see my article entitled “Canadian Charities and Foreign Activities” at http://www.globalphilanthropy.ca/images/uploads/Canadian_Charities_and_Foreign_Activities_by_Mark_Blumberg_October_2007.pdf

There are many resources that could be helpful for a Canadian foundation interested in operating abroad. I recently reviewed a very useful US book entitled “Making a Difference in Africa: Advice from Experienced Grantmakers” which was written by Rob Buchanan and Jayne Booker. In my review of the book, I discuss various ideas on international grantmaking put forward by those authors. My article may be particularly helpful to Canadian foundations who are starting out in this area. It can be found at:

(http://www.globalphilanthropy.ca/images/uploads/Review_of_Making_a_Difference_in_Africa_-_Advice_from_Experienced_Grantmakers.pdf)

As well, if you are interested in understanding the US experience with direct charitable activities The Foundation Center has prepared a useful booklet entitled MORE THAN GRANTMAKING: A First Look at Foundations’ Direct Charitable Activities. The booklet is located at:

http://foundationcenter.org/gainknowledge/research/pdf/dca_2007.pdf

Esperanza and Plewes note that a

...small group is made up of operating foundations that develop their own programs overseas and fund them directly through agency agreements with overseas organizations or through a Canadian intermediary. The Colin B. Glassco Charitable Foundation for Children is an example of the latter. Focusing on the treatment of trachoma among children in Zambia, in 2004 it allocated \$332,000 to its program through the intermediary of ADRA. The Mary A. Tidland Charitable Foundation supports medical and educational projects through agency agreements in a variety of countries. Both foundations raise funds from other private donors and involve volunteers. In many ways their work resembles that of international CSOs.

4) Work directly with charitable beneficiaries outside of Canada

A Canadian foundation can conduct direct charitable activities on its own. For example, the Canadian foundation could award scholarships to certain foreign students based on certain predetermined and charitable criteria. A Canadian foundation could pay for an employee to work outside of Canada for example, in providing education or health care services.

For many endowed foundations, direct charitable activities whether done through an intermediary (#3) or directly with beneficiaries (#4) may not be a great idea. Such activities may expose the foundation and its endowment to potential liabilities even if carefully planned. With non-endowed foundations, this is not as much of a concern.

As well, in order to conduct direct charitable activities, whether through an intermediary or not, a foundation would need to have some capacity including staff knowledgeable and experience in international activities in order to deal with legal, ethical and practical issues. Although private and public foundations can hire staff or obtain legal and other advice, many Canadian operating charities would prefer that the foundations give them the money directly, and the charities that already have the staff and capacity conduct the activities. As well, I think that foundations would realize that there are many challenges to conducting an efficient, effective and sustained international program and that assistance from an operating charity is helpful.

Conclusion

Canadian foundations can conduct direct charitable activities outside of Canada. To the extent that the Canadian foundation decides that it does not wish to conduct direct charitable activities outside of Canada, there is usually nothing stopping them from granting funds to Canadian qualified donees that work on international issues or have international programs as discussed in the first option above.

Canadian public and private foundations should consider the importance of dealing with international issues whether by supporting Canadian charities that operate abroad, by raising awareness of issues at home or by considering carrying on direct charitable activities outside of Canada.

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