CHAPTER 1

So You Want to Be a Global Nonprofit?

1.1 What Do You *Really* Want to Accomplish?

Why are you passionate about getting involved with global issues? Have you observed a need that tugs at your heartstrings? Do you want to make a measurable impact? Do you want to experience the personal rewards that come from helping people in need? Do you feel driven to make a difference by doing something no one else is doing?

These are questions to ponder before launching a nonprofit organization that works across borders. The answer to each of these questions may lead you to a different kind of organization. For example, you may be able to have the greatest impact by funding existing programs, while avoiding the administrative costs of operating your own. If you desire a more personal experience, you might consider collaborating with an existing organization by providing volunteer support as well as funding. On the other hand, you may have a strong vision that requires launching your own program in a foreign country. In that case, you must be prepared to devote resources to deal with a host of administrative, legal, and practical matters before you even start operating.

1.2 Spectrum of International Activities

You can think about international nonprofit activities on a spectrum, from minimum to maximum levels of foreign engagement. On the minimal end of the spectrum lies the U.S. charity that makes grants to U.S. or foreign organizations that operate, or support operations, in foreign countries. On the other end lies the truly global organization that has offices, employees, and donors around the world. As you move along the spectrum of international activities, you will encounter more complex legal issues and practical challenges. An organization may start at the minimal end and evolve in complexity over time, or it may decide to jump in with both feet from the outset.

Example: Assisting Orphans in Foreign Countries

To illustrate how a single charitable purpose can be served by operating at different points along the spectrum of international activity, here are four examples of U.S.-based 501(c)(3) organizations that chose different paths to assist orphanages in foreign countries:

1. *Making grants through a foreign intermediary.* Families with Children from China, Inc., of Greater New York (*FCC*), was formed by a group of American families who had adopted children from China and wanted to create educational and cultural programs for adopted children and their families. Recognizing that many of its member families felt a strong desire to help improve the lives of orphans in China, FCC established a program for supporting children in orphanages throughout China by making grants to a China-based organization, the Amity Foundation. Each year, FCC appeals to its members for funding, and works with the Amity Foundation to identify projects and monitor the use of funds it contributes. By using a local country intermediary, FCC is able to further its mission, to improve the lives of children in Chinese orphanages, with minimal administrative costs.

   FCC's experience is discussed further in a case study later in this chapter.
2. *Making grants directly to foreign programs.* Friends of the Orphans (*FOTO*) seeks to improve the lives of orphaned, abandoned, and disadvantaged children by providing support to a network of orphanages throughout Latin America and the Caribbean. FOTO maintains a direct and close relationship with the network of orphanages it supports.

   In addition to providing funds, FOTO actively recruits and places volunteers with specific skills to assist in particular orphanages. FOTO does not maintain its own offices in countries where the orphanages are located. The volunteers FOTO sends are directly responsible to the orphanages, rather than to FOTO.

3. *Operating programs in foreign countries.* World Association for Children and Parents (*WACAP*) is an international adoption organization that also provides support to orphans in a number of countries. In some countries, WACAP maintains a registered office and staff, while in others it avoids the need to establish an office by working with a local NGO or government agency. Ethiopia and Russia are two countries in which WACAP operates directly through a licensed office and locally based staff.

   A case study of WACAP appears in Chapter 4.
4. *Raising funds outside the United States.* Half the Sky Foundation (*HTS*) was founded by adoptive parents who wanted to improve the lives of children living in orphanages in China. HTS began by working directly in Chinese government-owned orphanages, helping to train caregivers and teachers. After operating in China for several years, HTS received permission to register its own office in China.

   In addition, HTS recognized that its potential base of support extended beyond the United States, as families in a number of other countries had adopted children from China. Many of those families would want to help the children left behind. Within 13 years following its founding, HTS had formed separate fundraising organizations in Canada, Hong Kong, the United Kingdom, and the Netherlands, and was awaiting approval in Australia, allowing it to attract tax-deductible contributions from residents of those countries.

   HTS's evolution into a global organization is the subject of Chapter 10.

Each of the organizations described above has to be concerned with a variety of U.S. laws that apply specifically to international activities and, at least to some extent, with the legal requirements of one or more foreign countries. The legal and practical considerations, both U.S. and foreign, become increasingly complex as your organization becomes more directly and deeply involved in operations outside the United States.

The remainder of this chapter provides an overview of the basic models for conducting international activities, and a framework for identifying the legal and practical considerations you'll need to know about. The remaining chapters further explore these models, and delve more deeply into important legal and practical issues.

1.3 Overview of International Grantmaking

While international grantmaking entails less complexity, and less administrative cost, than does running a full-fledged operation in a foreign country, grantmaking itself runs across a spectrum of activity. As you become more directly engaged with foreign organizations, you will face more legal and practical complexity.

For purposes of this discussion, international grantmaking includes any form of support that is intended for use outside the United States for a charitable (501(c)(3)) purpose. Grantmaking may take the form of providing cash or gifts in kind. Grants may be made directly to individuals, local nongovernment organizations (*NGOs*) that provide direct services, or to foreign governments.

If you are contemplating international grantmaking, you need to think about whether you want to work with an intermediary organization, which may be based in the United States or in a foreign country. Alternatively, you may want to provide funds directly to organizations that operate their own programs in foreign countries.

An intermediary organization is one that provides funds to, and typically monitoring of, programs operated in one or more foreign countries by foreign organizations or governmental bodies. Working with an intermediary can be a great way for a nonprofit to enter the international arena. You will avoid the need to manage personnel remotely, to comply with local laws, and to deal with all of the administrative complexities of delivering services, or even sending funds, overseas. At the same time, this can be a way for you to learn about how to work in a particular geographic area. By working with an experienced organization whose mission is similar to yours, you can learn a lot about what a particular population needs, and how to serve those needs most effectively.

Ultimately, you may decide that working with one or more U.S. or foreign intermediaries, or even funding foreign organizations that directly operate programs, strikes the right balance. This can afford your organization an opportunity to make a real impact without enormous administrative effort and costs. You can leverage what others have already learned, giving your dollars maximum impact.

The U.S. legal requirements for international grantmaking differ depending on whether the grantmaking organization is classified as a so-called *public charity* or *private foundation*. Chapter 2 deals with public charities, while Chapter 3 deals with private foundations.

If you desire more direct involvement, by operating your own foreign programs, you will need to be prepared to devote significantly more time and resources. You will face practical, and often complex, questions about how best to deliver services to the intended population. You will also need to deal with a host of legal and practical issues, in the United States and abroad. Chapters 4 through 7 explore models for operating foreign programs directly, while Chapters 8 and 9 address additional legal and practical considerations you are likely to encounter, in the United States and abroad.

Funding through a U.S.-Based Intermediary

At one end of the grantmaking spectrum, your organization may choose to support a U.S.-based 501(c)(3) organization that makes contributions to foreign organizations. This can be a good way to start if your organization has no existing relationships in the country you want to work in. By working with a U.S.-based organization, you can learn a lot about the opportunities and challenges involved in supporting programs in a particular country. In fact, you don't even need to have formed your own 501(c)(3) organization to get started this way.

There are some large U.S.-based organizations that support a variety of interest fields and provide a wide range of services. These organizations frequently operate as so-called *donor-advised funds* (*see* section 2.5), accepting contributions from donors who make non-binding requests that the funds be granted to particular foreign organizations. For example, Give2Asia (www.give2asia.org) operates in more than 20 countries throughout Asia, and maintains staff and/or advisors in each country. Give2Asia will provide you with advice and assistance to decide which programs you wish to support. It also devotes resources to seeking out worthy recipients of aid, vetting those organizations and monitoring the use of funds. This relieves your organization of the legal, and practical, need to exercise extensive oversight, allowing you to devote your scarce resources to the programs you are supporting.

A few other large, U.S.-based intermediaries are Charities Aid Foundation (www.cafamerica.org), Tides Foundation (www.tides.org), and United Way International (worldwide.unitedway.org).[1] Of course, you may also know of a smaller 501(c)(3) organization that funds, or even directly operates, in the geographic area where you want to work. You can start out by funding such an organization as a way to learn about the local environment.

A U.S. intermediary will most likely charge administrative fees. These fees may include a one-time set-up fee, and an annual fee based on a percentage of assets held in a fund a donor has created. While the fees may seem high, you should consider what it would cost your organization to administer a cross-border grantmaking program. After assessing the costs of complying with the requirements outlined in Chapter 2 or 3 (as appropriate to your organization), you may find that working through a U.S. intermediary is a cost-effective way to achieve your purposes.

While funding through a U.S.-based intermediary is a relatively easy way to get started with supporting programs outside the United States, the trade-off is that you will not experience a direct relationship with the foreign programs you want to support. Moreover, these U.S. intermediary organizations cannot make a legally binding commitment to direct your funds to the foreign organization or project you select. You can only recommend that the organization use your contribution in the way you desire. This is explained further in Chapter 2.

Funding through a Foreign Intermediary

If you choose to fund a foreign, rather than a U.S. intermediary, you will need to form your own U.S.-based 501(c)(3) organization in order to attract contributions that are tax-deductible for U.S residents. A foreign country intermediary can serve as the eyes and ears on the ground for your organization by helping to vet potential projects, and it can assist with monitoring the use of funds.

There are multitudes of foreign intermediary organizations that have developed expertise in providing aid to service providers in their local countries.[2] Many of these foreign intermediary organizations operate like community foundations, and can direct contributions to particular fields of interest. These intermediaries have staff and/or advisors, as well as experience in the countries they serve. If your organization does not have the resources to carefully vet and monitor the local country organizations you support, an intermediary organization may give you the greatest bang for your buck. Or, it may allow you to start pursuing your mission while learning what you need to know about working in the country of your choice.

Of course, even if you choose to work with a large, well-respected foreign intermediary, your organization will need to adopt policies and procedures to ensure that your funds are used for the intended purposes, and to comply with U.S. laws (discussed in Chapters 2 and 3). Stories of disappearing funds are rampant in the world of international aid. Two notorious examples of extensive misuse of charitable funds occurred in 2011 in China, where, as reported by the South China Morning Post, two of China's largest charities, the Red Cross Society of China and the China Charity Federation, were found to have improperly channeled charitable funds to private business interests.[3]

The following case study is an example of one organization that did its homework and found a foreign intermediary that served its objectives. The result was a long-term relationship in which the U.S. funder participated in project development, and even initiated projects. Sustaining such a relationship is not an easy task, but neither is operating a foreign program of your own. The key point here is to think about what you are prepared to take on, and how you can best achieve your objectives with the resources you have.

Case Study: Families with Children from China

Families with Children from China, Inc., of Greater New York (www.fccny.org), known as FCC, is a 501(c)(3) organization, based in New York City, formed during the mid-1990s by a group of families who had adopted children from China. These families wanted to provide support to other adoptive families and educate the public about adoption. In addition, a number of FCC's early members had visited Chinese orphanages while adopting their children, and they wanted to help improve orphanage conditions for children left behind. To explore alternatives for providing assistance to children in Chinese orphanages, a group of FCC members formed a committee they called the *Charitable Initiatives Committee*.

Setting Criteria

Before they began to research alternative ways of providing assistance, FCC's Charitable Initiatives Committee established certain criteria that would help guide their decision-making:

- *Be culturally sensitive, and listen to what the need is.* A number of FCC members had previous experience in the Peace Corps and other foreign development efforts, and believed it was critical to avoid imposing their own notions of what was needed. These members wanted to work with Chinese orphanage directors to help bring about improvements that the orphanage personnel would embrace.
- *Be realistic about time and travel commitments.* The committee recognized that FCC members were busy professional parents with young children. It would not be feasible to sustain a program that required FCC members to spend significant time in China, or even one that required full-time management from the United States.
- *The impact must be visible.* FCC members wanted the ability to see a direct impact on the lives of children.

Exploring Alternatives

Having set criteria, the committee began to look at alternative ways of providing assistance to Chinese orphanages. The group quickly dismissed the possibility of operating their own program in China. Not only would that require time commitments and resources FCC didn't have, but also the group recognized that there was no member with experience running a nonprofit organization with international activities. Starting one was simply too much to take on. In addition, FCC's members wanted to work in cooperation with existing orphanage programs to be sure that they were responding to the local perception of what was needed.

The committee considered providing medical or baby supplies to orphanages. However, it would be impossible to be sure that the supplies actually reached the children in need, and therefore it would not be possible to see the impact.

Finally, the committee arrived at the idea of partnering with an organization that was already working within Chinese orphanages. The group surveyed U.S.-based adoption agencies to see whether any of them had started such a program, but did not find any (although in subsequent years a number of adoption agencies would have such programs). Eventually, the committee learned about the Amity Foundation (*Amity*), an independent (*NGO*) charitable foundation based in China that promotes education, health, and social services within China.

It appeared that FCC could satisfy its criteria by funding projects operated by Amity. Amity was run by Chinese nationals who would be sensitive to cultural norms and could easily communicate with orphanage directors to understand the children's needs. FCC members would not have to make undue time commitments, and Amity's reports would provide visibility into the impact of FCC's funding.

Performing Due Diligence

As of the time FCC contacted Amity in 1996, Amity's program in Chinese orphanages was quite small. However, Amity had been operating other programs in China since 1985, and it had a proven track record in delivering social services. FCC was able to confirm this through the Ford Foundation, one of the few American foundations operating in China at that time.

Having determined that FCC could work with Amity to address the needs of Chinese orphanages, and with confidence that Amity was a sound organization, FCC decided to proceed with raising funds from its members.

FCC's Experience Working with a Chinese Foundation

In its first year, FCC raised over $50,000 from its members and made a grant to Amity for orphanage projects. The funds were used to provide surgeries and pay school fees for some children. In addition, Amity started a foster care program whereby children would live with foster families instead of remaining in an orphanage. Based on the report Amity provided at the end of the first year, FCC was pleased to see that its funding had made a direct impact on the lives of children.

In 1997, as FCC contemplated a second grant to Amity, the chair of FCC's Charitable Initiatives Committee made a site visit to see the Amity orphanage programs, and to meet Amity and orphanage personnel. The FCC representative was impressed with the level of knowledge and dedication of Amity's staff, and recommended that FCC continue to fund orphanage projects operated by Amity.

During its second and subsequent grant cycles with Amity, FCC became more deliberate about selecting the projects it would fund, aiming to maximize its impact. FCC was particularly pleased that Amity was interested in working to improve conditions in Chinese orphanages by helping to bring best practices to orphanage care. For example, Amity would hold conferences, within China, bringing volunteer caregivers (called *Grandmas*) together to provide training and sharing of best practices.

Amity personnel also attended conferences held by internationally renowned childcare experts, bringing ideas about best practices back to the orphanages. One such idea led to improvements in foster care among orphanages where Amity worked. When Amity proposed a project that would introduce a new model of foster care, FCC responded enthusiastically. FCC was already aware that foster care in China was often no better, if not worse, than orphanage care. With financial support from FCC, Amity introduced a model of foster care that included education and support for foster parents, as well as oversight and social services intended to ensure that children in foster care received proper nutrition and health care.

Often, a disadvantage of working through an intermediary organization is a loss of ability to influence the selection and implementation of projects. In particular, smaller funders can find themselves overshadowed by those who provide large grants and command greater influence. In the case of FCC and the Amity Foundation, this did not turn out to be the case.

In fact, FCC proposed at least three separate projects to Amity, which agreed to develop and implement the projects. In one instance, FCC identified a need for nursing care in orphanages and asked Amity if it would work with orphanage directors to implement a nursing program for children with medical needs. In another instance, FCC members who had adopted children from Wuhan wanted to assist the orphanage there in connection with its fiftieth anniversary. Although Amity had not been working in that orphanage, or even in that province, Amity agreed to initiate a project there with a mere $10,000 of funding from FCC. In a third instance, a family whose adopted daughter had passed away, wanted to raise funds and provide assistance to the orphanage their daughter had lived in. Again, although Amity was not working in that orphanage, it was willing to work with the orphanage director to address its needs.

FCC views Amity as a true partner, having worked together for 16 years to improve the lives of children living in Chinese orphanages. As FCC's funding began to decline in recent years, due in part to the U.S. economy, FCC became concerned that the programs it had developed with Amity might be too dependent on FCC funding. However, that turned out not to be the case. Amity has been able to sustain its orphanage programs by developing new sources of funding, for example from wealthy Chinese individuals living in China, Taiwan, and Hong Kong.

It is no accident that FCC's funding relationship in China has been so successful. The Charitable Initiatives Committee was deliberate about setting criteria and seeking out a partner that fit those criteria. FCC began cautiously, and evaluated the results as it went. While the committee members were realistic about their time and resource limitations, they were engaged and attentive, carefully building trusted relationships.

Directly Funding Foreign Programs

If you want to be more involved with foreign projects, you may want to fund one or more foreign organizations that directly operate programs. Here again, you will need to form your own U.S.-based 501(c)(3) organization in order to attract contributions that are tax-deductible for U.S residents.

You might consider forming a so-called *American friends of* organization, for the primary purpose of supporting a particular foreign NGO. Alternatively, your U.S. organization may want to support multiple foreign organizations. In either case, the U.S. grantmaking organization is required to vet its grantees and the projects it funds, and to monitor the use of grant funds. Your U.S. grantmaking organization may choose to become involved in the planning and implementation of the foreign projects it funds, and in some cases may even obtain the right to appoint and remove some or all of a foreign grantee's board members. Alternative ways of structuring such legal relationships are discussed in Chapter 5.

Case Study: Pangea Giving (Pangea)

Pangea (www.pangeagiving.org) is a Washington state-based 501(c)(3) organization that operates as an international giving circle. Its mission is to raise awareness of global issues, study ways to address them, and help people in economically disadvantaged countries around the world.

Pangea was formed by a group of people who, in the wake of the September 2011 terrorist attacks, wanted to become better global citizens. Within less than a decade, they grew into a 50-member organization with a grant portfolio of approximately 20 grantees in Latin America, Africa, and Asia. Through their concerted efforts to educate themselves about world issues and international grantmaking, the members of Pangea have become highly knowledgeable about the substantive issue areas they fund, and the specific needs of populations living in the areas they target. Equally important, as a group they have worked to understand how to have the greatest possible impact with their modest dollars, and how to ensure that the funds they give are used for the intended purposes.

Pangea's strategy is to make a significant impact through small grants to carefully selected foreign organizations that can show demonstrable success in tackling specific problems in rural communities. Every Pangea member must make a relatively modest minimum annual contribution of $2,000, although some members contribute more. Out of the total raised each year, approximately 10 percent is devoted to administrative costs and the remainder, approximately $125,000, is awarded in grants. The average grant is approximately $6,000, and a typical grantee has a budget of $100,000 or less.

What makes Pangea successful? Some of the critical success factors for Pangea are:

- *Highly engaged members.* Pangea's members, on the whole, have significant time and resources to devote to the process of selecting and monitoring grant recipients. They also have a love of travel. Members regularly travel to far-flung corners of the world to visit prospective grantees, and to monitor the use of grants. Collectively, they spend many hours identifying prospects, reviewing proposals, and monitoring results.
- *Collaborative decision making.* The Pangea model of grantmaking is highly collaborative. There is a committee, or *pod,* dedicated to each of the three regions (Latin America, Africa, and Asia) in which Pangea makes grants. Pod members fully vet proposals, meet to discuss the applicants, and ultimately make recommendations to the full membership. Sometimes, but not always, one or more pod members conduct a site visit during the due diligence process. At an annual meeting of members, the pods present their recommendations to the full membership, which then votes, usually to approve the pods' recommendations, but occasionally rejecting a recommendation or requesting more information. This lengthy process helps ensure that grant proposals receive careful review.
- *Research and member education.* The members of Pangea recognize that, in order to have a positive impact in a foreign country, it is critical to understand the most critical needs of a local population and how they can be addressed. Equally important is understanding what has and has not worked in a particular area, and why. Pangea places strong emphasis on educating members so that the entire group can make informed funding decisions.
- *Relationships with U.S. and foreign NGOs.* From the outset, Pangea members appreciated the importance of developing a network of relationships with various U.S. and foreign-based NGOs working in the regions that Pangea targets. Pangea understands that the small community-based organizations it funds do not operate in isolation, but fit into a larger web of assistance in a particular region.
- *A realistic perspective on the group's strengths and limitations.* Pangea concedes that it is ambitious in funding organizations in three very distinct regions of the globe. At the same time, the members know that to be knowledgeable and effective, they need to narrow the geographic focus within each region, and target specific issue areas. The group has limited its reach in Latin America to Guatemala, southern Mexico, and Haiti. In Africa, it focuses on Kenya and Tanzania, and in Asia, Pangea concentrates on Nepal, Cambodia, and the Thai-Burma border.

- *Gradual start-up and slow growth.* During the organization's early years, Pangea's members decided that its resources should be spent directly on grantmaking and education, rather than on creating a legal structure. For that reason, Pangea initially found a U.S. 501(c)(3) organization that was willing to act as an intermediary for grantmaking purposes. Pangea members would conduct full due diligence and recommend grants to the intermediary organization, which would then review Pangea's materials and decide whether to approve the grants. Funds would flow to the intermediary organization, which would then formally make grants upon the recommendation of Pangea.

By working with an intermediary organization during the initial phase, Pangea had time to test its model and develop a solid membership base, thereby ensuring financial sustainability before committing the resources required to create and sustain a separate 501(c)(3) organization.

1.4 Directly Operating Foreign Programs

Direct foreign operations run across their own spectrum, with foreign country activities ranging from collaboration with a foreign organization to operating an independent program. At some point, your organization may engage a foreign consultant to oversee the operation. Later, perhaps it will hire a full-time employee. This may require registrations or permissions. Once registered, the organization may have tax obligations, or may obtain tax-exempt status. It may have to withhold employment taxes and pay social taxes on behalf of its employees. Even if the organization is exempt from income taxes on contributions it receives, it may have to pay value added taxes (*VAT)* on purchases it makes. There may be import duties on goods shipped into the country.

If you are hiring outside the United States, or even sending U.S. staff or volunteers, you may need or want to create a separate, foreign nonprofit corporation, or something similar to a nonprofit corporation under the particular foreign country's laws. You will still need to maintain a separate U.S. 501(c)(3) organization, assuming you want to raise funds from U.S. taxpayers. You may want the organization you founded in the United States to have some form of control over the foreign operations. Or, you may want the foreign organization to operate autonomously but coordinate with the U.S. organization in setting strategy. You can usually achieve the relationship you want, but how you do it will require knowledge of the foreign country's laws, and how they interact with U.S. legal considerations. You will need to work with both U.S. and foreign attorneys. This is discussed in Chapter 5. Now, you can envision your hard-won contributions going to pay legal fees before you have even started to operate a program!

By the time you have calculated all of the costs of maintaining a local office, and considered the costs of hiring attorneys, and perhaps other consultants, to help you comply with foreign requirements, you may conclude that you're better off partnering with an established organization. Or, you may decide it makes sense to launch your own foreign operation because your organization is uniquely suited to deliver the program you envision.

Regardless of where you end up, working through all of these issues in advance will help your organization to decide what is the most efficient way to make use of the resources it has.

The following case study is an example of one organization that decided to widen its reach beyond the United States, by contributing its knowledge and expertise, to help foreign organizations to replicate its programs in their own countries.

Case Study: SightLife—Scaling Local Operations for Global Impact

SightLife (www.sightlife.org) is a U.S.-based 501(c)(3) organization whose mission is to eliminate corneal blindness through the process of eye banking, which is the recovery and placement of eye tissue used in cornea transplants. Since it began operating in 1969 (initially as the Northwest Lions Eye Bank), SightLife has provided corneal tissue for transplant throughout the western United States. By 2009, SightLife was the leading eye bank in the United States, filling 100 percent of the need in the U.S. regions it served. At the same time, SightLife recognized that it was serving only a tiny portion of the 10 million people in need of cornea transplants throughout the world.

Determining How to Serve a Larger Population

SightLife's CEO, Monty Montoya, and the board of directors, realized that by working with partners in foreign countries, SightLife could make far more progress toward curing corneal blindness throughout the world than it could by expanding its own eye bank operations across the globe. Beginning in 2009, SightLife embarked on an effort to leverage its knowledge and experience in eye banking by identifying foreign partners that could make use of SightLife's support to develop scalable, self-sustaining programs.

In its 2010 Annual Report, SightLife estimated that, by the end of 2011, SightLife's worldwide partners would be serving more transplant patients than those served directly by SightLife, and eventually the number served by worldwide partners would eclipse SightLife's own numbers by 100-fold, and even 1,000-fold.

Moving from Local to International Organization

Eye banking is a local process. It requires surgeons to perform transplants, and hospital facilities that can support them. A local eye bank must work with hospitals to identify potential donors, employ counselors to reach out to families of potential donors, employ technicians to recover corneal tissue, and maintain a network of surgeons who can perform transplants.

SightLife had operated locally for 40 years. The plan developed in 2009 called for SightLife to become an international organization by helping foreign partners to develop local programs in their own countries. SightLife would support the creation and growth of effective and efficient eye banks by providing strategic, technical, and financial assistance with every aspect of the eye banking process. Funding would be conditioned on meeting specific milestones. The package of support that SightLife developed to support its foreign partners became known internally as *eye bank in a box*.

Deciding Where to Go

With limited resources, and with requests for assistance coming from all parts of the globe, SightLife quickly realized that it needed to be intentional about where it could have maximum impact. It hired Tim Schottman, a former Starbucks executive, to serve as Chief Global Officer, leading the global expansion. Tim approached global expansion as if it were a business initiative, beginning with an analysis of some past projects, not all of which had been successful, to come up with a set of criteria for evaluating geographical areas and potential partners.

SightLife conducted market research to determine need, measured by estimates of corneal blindness by country throughout the world. The next step was to focus on the supply side. In each country where the need was great, was there an adequate supply of hospitals and eye surgeons to harvest corneal tissue and perform transplants?

The analyses revealed that approximately 7 million people in India suffer from corneal blindness in one or both eyes, and that India has a functional health care system with an existing network of approximately 400 corneal surgeons. The combination of those conditions led SightLife to identify India as the country where an investment of resources could have the greatest impact in restoring sight to millions of people.

Having identified its primary geographical focus, SightLife developed a set of criteria for identifying partners that could make the best use of SightLife's support, scale their operations, and ultimately become self-sustaining. The criteria required, for example, that an eye bank have a professional manager to oversee operations.

Having laid careful groundwork for success, in 2010 SightLife established partnerships with five eye banks in India. In addition to providing funding, SightLife helped install managers, facilitated the hiring of eye donation counselors, and provided training for managers and counselors.

Establishing a Presence in India

Although SightLife would not directly operate eye banks in India, its engagement with Indian eye banks demanded that SightLife maintain a permanent presence there. This would require forming a separate Indian organization, similar to a U.S. nonprofit corporation. SightLife decided to form a so-called *section 25 company*, a commonly used form of Indian nonprofit organization, with SightLife as the sole member. While the board is comprised of Indian nationals, SightLife, as sole member, has the ultimate power to appoint and remove board members.

In India, as in many developing countries, foreign organizations often face challenges trying to identify all of the requirements to establish operations. Requirements are not always formalized in laws or regulations, and government officials may have significant discretion. Consulting with multiple attorneys can result in conflicting advice. Precious time can be wasted when government bodies reject applications because of simple failures that could have been avoided.

SightLife faced all of these challenges in establishing a nonprofit company. In particular, the process for obtaining permission to receive foreign grants was confusing and cumbersome. India's Foreign Contribution Regulation Act (*FCRA*) requires that all nonprofit organizations in India wishing to receive funds from outside India must register with the government, agree to accept foreign contributions only through designated banks, and file reports that include information about the source and intended purpose of the funds.

Having operated as a local organization for 40 years, it is, as of this book's publication, still a new a challenge for SightLife to work with a foreign affiliate that has its own board of directors. SightLife continues to work toward striking the optimal balance between central control and local autonomy, while meeting legal requirements in both countries.

The next step for SightLife's Indian company will be to become registered to receive tax-favored contributions from within India. SightLife believes that, among India's wealthier individuals, there is capacity and willingness to contribute to projects aimed at curing corneal blindness.

Hiring a Country Director

Hiring a full-time director to manage SightLife's Indian operations was more of a practical than a legal challenge. Bringing SightLife's American management model into India proved to be difficult. Based on its own experience, SightLife knew that it needed a strong manager who would not be subservient to doctors, but finding such an individual within India seemed impossible. Ultimately, SightLife was able to transcend the cultural divide by hiring an Indian national who had been educated in the United States and, in fact, had become a U.S. citizen. The individual was able to obtain a visa to work for SightLife in India.

Developing Information Systems

SightLife views the development of information technology (*IT*) systems as a critical piece in helping its foreign partners scale their operations. Having consistent, accurate data from its partners is essential to SightLife's operational consulting and performance comparisons. It is standard practice today for any multinational business to have systems that facilitate shared, real-time measurements. It is still rare, however, to find such systems across a network of nonprofit organizations. To this end, SightLife is developing a web-based, operational IT system that will track all corneal tissue and provide analysis and performance tracking for all of its partner eye banks.

In addition to developing an operational system, SightLife is developing a national distribution system in India that links surgeons needing corneal tissue with eye banks that have tissue to share, creating an efficient exchange, and improving tissue utilization.

Moving into Additional Countries

While SightLife intends to focus most of its international efforts on India for the next few years, it is also working to build a network of potential future partners in other countries where the need is great. By 2011, SightLife had alliances in Nepal and Ethiopia, and was exploring opportunities in Latin America.

As SightLife gains experience working in foreign countries, it will continue to develop alliances throughout the world in furtherance of its vision, to eliminate worldwide corneal blindness.

1.5 Global Fundraising

On the farthest end of the international activities spectrum lies a complex multinational organization that not only operates its own foreign programs, but also raises funds in one or more countries outside the United States. You may be considering this model if you already know people in other countries who support your mission.

You will probably want your donors to be eligible for whatever tax benefits their resident countries afford. The level of tax benefit available for charitable giving varies widely among countries. In addition, every country that provides tax benefits for charitable contributions is concerned about making sure those contributions are used for the intended purposes. Those concerns are heightened when funds are going outside their borders. As a result, some countries afford tax benefits only for charitable donations that are used within the particular country. Others impose a variety of requirements on a domestic organization that directly receives the contribution.

In most countries, a donor must contribute directly to a separate organization, established under the laws of the donor's resident country, before the funds can flow to a foreign recipient. This means that your organization must either create a separate nonprofit organization in the donor's country, or identify an existing NGO that is willing to raise funds for your foreign program. Each has its pros and cons. Establishing a separate nonprofit corporation (or something similar under a foreign country's laws) adds significant complexity for your organization, but provides you with more control over fundraising strategies and communications.

Once again, you can see that working through the issues ahead of time will allow you to create the structure that provides optimal efficiency for your organization, and helps you avoid taking on complexity that you may not have the resources to manage. Global fundraising is discussed further in Chapter 7. In Chapter 10 we look at how one organization, Half the Sky Foundation, developed a multinational fundraising structure.

1.6 Legal Considerations: A Basic Framework

As you think about where you want to operate along the spectrum of international activities, it is important to understand how you can best serve your mission within the context of applicable U.S. and foreign laws. These legal considerations are summarized here and addressed in greater detail in later chapters.

Obtaining and Maintaining U.S. Tax-Exempt Status

Assuming you wish to attract tax-deductible contributions from U.S. taxpayers, you will need to qualify as a particular type of federal tax-exempt organization, commonly referred to as a 501(c)(3) organization. This book does not delve into all of the requirements and restrictions that apply to 501(c)(3) organizations, nor how to become qualified. There are many resources available to help you with that, and several are listed in Appendix B. This book does, however, address the special rules that apply to 501(c)(3) organizations that engage in international activities.

Keep in mind that 501(c)(3) status means that your organization is exempt from U.S. federal income tax. In most cases, state income tax exemption (in states that have income taxes) follows, either automatically or upon filing of an application. Note, however, that a 501(c)(3) organization may be subject to various non-income taxes, such as employment, property, sales, and/or excise taxes, at the U.S. federal, state, and even local levels. In some cases, you need to apply separately for exemption from these other taxes. In others, there is no applicable exemption. In some states, exemptions from property taxes, and/or sales and use taxes, apply to specific activities, but not to the entire scope of activities that can qualify for federal income tax exemption under 501(c)(3).

CROSS-BORDER GRANTMAKING If your 501(c)(3) organization is sending funds or goods to a foreign country, you will need to adopt procedures to be sure that the contribution is used for the purposes for which your organization was granted tax-exemption (so-called *501(c)(3) purposes*, sometimes referred to as *charitable purposes*). The particular procedures you need to adopt for cross-border grantmaking depend on whether your 501(c)(3) organization is classified as a so-called *public charity* or *private foundation*. These classifications, and the applicable procedures, are discussed in Chapters 2 and 3.

FOREIGN ACTIVITIES If you are directly operating foreign programs, you can still qualify as a 501(c)(3) organization. It is well established that an organization can qualify for 501(c)(3) status even though all or part of its activities are conducted outside the United States.[4] In fact, by directly conducting foreign programs, you will be in a good position to monitor and control the use of the funds your organization devotes toward carrying out its purposes. At the same time, your organization's foreign, as well as domestic, activities must comply with all of the 501(c)(3) requirements. It can be particularly challenging to enforce internal policies and procedures to ensure that your foreign operations comply with 501(c)(3) requirements, such as:

- Avoiding supporting any terrorist activities.
- Avoiding the provision of improper benefits to insiders, or other private interests.
- Avoiding participation in excessive lobbying or prohibited election-related communication.

You will also want to monitor whether, and the extent to which, your organization engages in any business activity that could trigger U.S. and/or foreign tax. All of these considerations are discussed further in sections 4.8 and 4.10.

In addition, it's important to keep in mind that a 501(c)(3) organization is tax-exempt only in the United States. If you establish an office and hire employees in a foreign country, you should not assume that your organization will qualify for tax-exempt status in that country. It may qualify for exemption from some but not all applicable taxes, and you may have to comply with cumbersome requirements.

Foreign Legal and Practical Concerns

Once you begin to operate directly in a foreign country, for example by sending staff, hiring locally, and/or registering an office, you will need to understand how that country's laws affect your operations. However, even if you are merely considering funding a foreign NGO, you may run into restrictions and unforeseen expenses. Indeed, in recent years there has been a trend toward increasing numbers of countries enacting, or considering, laws that restrict the operation and funding of nonprofit organizations within their borders, particularly those that receive foreign support.[5] When exploring the feasibility of operating in a foreign country, you should inquire not only about the laws that apply to your organization, but also about proposed legislation.

Listed further on are some important questions you need to ask before launching operations in a foreign country. Each of these topics is addressed in greater detail in later chapters.

It would be impossible to summarize the laws of all foreign countries, and doing so would be fruitless given the rapid pace of change, particularly in developing countries. Rather, this book aims to arm nonprofit organizations and their leaders with the questions they need to ask up-front in order to shape their international activities to best fit their purposes and available resources.

DOES THE FOREIGN COUNTRY RESTRICT THE INFLOW OF FUNDS OR GOODS? In recent years, there has been a disturbing trend among a significant number of countries to restrict foreign funding of local country NGOs. These restrictions come in a variety of forms, including prohibitions on the receipt of foreign funds for particular purposes, requirements that funds be channeled through governmental entities or banks, government approval requirements, and the imposition of prohibitive taxes on the receipt of foreign funds.

For example, Venezuela prohibits the receipt of foreign funding by organizations that have political purposes. Some countries permit their NGOs to receive foreign funding, but require advance governmental approval.

India, China, Indonesia, Egypt, Jordan, Eritrea, Belarus, and Uzbekistan fall into this category. Some of these countries, including India, Uzbekistan, and Eritrea, go even further, to require that foreign funds be routed through government-owned ministries or banks.[6]

Local country embargoes may prevent the importation of specific goods into a particular country. An organization that sends goods overseas must also investigate whether the goods will be subject to import duties or VAT, and if so, whether there is a way to reduce or eliminate those costs.

WILL THE FOREIGN COUNTRY ALLOW THE KINDS OF ACTIVITIES YOU WANT TO CONDUCT? If your organization intends to operate its own programs in a foreign country, you will need to investigate whether your activities are permitted. Restrictions on a nonprofit's activities in a particular country can take a variety of forms. In some countries, foreign organizations are subject to restrictions on their ability to operate. Azerbaijan, Turkmenistan, and Uganda are examples of countries that make it very difficult for foreign nonprofit organizations to operate within their borders.[7]

Some countries prohibit certain kinds of activities, such as the promotion of democracy and/or human rights. In some countries, policies tend to change quickly, and your organization can find itself shut down, or worse, overnight. Laws and policies may even differ from region to region within a particular country.

It is critical to talk with NGOs that are already working in a particular location to understand the environment and assess the risks.

WHAT REGISTRATIONS AND LICENSES WILL YOU NEED? Even if a particular country's laws allow the activities you want to conduct, you may need a registration or license. You will need to investigate applicable requirements, and what it will cost to obtain and maintain licenses and registrations. In the United States, as well as in Canada and much of Europe, we take for granted that we have the right to create organizations as long as we satisfy the legal filing and registration requirements. This is not true everywhere. There are many countries in which government officials have broad discretion to permit or deny applications to form organizations, and they can use that discretion to prevent the establishment of any organization they perceive as a threat. China falls into this category.

SHOULD YOU CREATE A SEPARATE NONPROFIT ORGANIZATION IN A FOREIGN COUNTRY? Once you have a registration or license in a foreign country, you have an official presence in that particular country, and your organization may be subject to a number of legal requirements as well as potential liabilities, including taxes. At this point, you should explore whether you are better off forming a separate foreign nonprofit organization (such as something similar to a nonprofit corporation under the foreign country's laws), to collaborate with the U.S. organization. If you form a separate foreign nonprofit organization, how much control might you lose? Are there requirements regarding local control of the organization? There is no one-size-fits-all approach to this, but it is important to think it through up-front.

HOW WILL YOU STAFF YOUR FOREIGN OFFICE? CONSIDER EMPLOYMENT LAWS AND VISA REQUIREMENTS If you decide to hire employees to work in a foreign country, you need to understand how that country's employment laws may affect your organization. Is it difficult to lay people off? Will you be subject to severance pay requirements? If you decide to send U.S. residents to work in a foreign location, you will need to understand and allow time for meeting visa requirements. If you are staffing foreign operations with U.S. individuals, taxes and expenses may add significantly to the overall costs.

DOES THE FOREIGN COUNTRY HAVE ANTI-TERRORISM RULES THAT APPLY TO NONPROFIT ORGANIZATIONS? Anti-terrorism rules, in the U.S. and many foreign countries, have become a significant force that shapes the way international nonprofit organizations operate. U.S. anti-terrorism laws, discussed in Chapter 8, have served as a model for many other countries. Some countries have adopted regulations and guidelines that are similar, although not identical, to those of the United States, while in other countries nonprofit organizations are subject to very different restrictions. Nonprofit organizations need to pay close attention to the requirements of each country in which they operate or provide funding.

DOES THE FOREIGN COUNTRY HAVE ANTI-BRIBERY RULES? It may seem obvious to you that bribery is illegal and unethical, but you may be surprised to discover that many foreign countries, along with the United States, have anti-bribery laws that are quite complex, often with severe consequences for violations. At the same time, you may well be operating in an environment where bribery is the norm, and it's very difficult to get anything done without it. Don't fall into the trap of thinking that your mission justifies the means. Before launching a program in a foreign country, you need to understand the laws that apply to you, and assess whether you can be effective in that environment.

DOES THE FOREIGN COUNTRY RESTRICT LOBBYING OR POLITICAL ACTIVITY? Many countries restrict lobbying and political activities by nonprofit organizations, particularly those that receive foreign support. Do not assume that a particular country's definitions of lobbying and political activities are the same as those applicable to 501(c)(3) organizations (described in Chapter 8). You could find yourself entirely within the IRS restrictions, yet in violation of some foreign restriction. Penalties can be harsh. No organization wants to be ejected from a country, or worse, have an employee jailed there. If you are working in a high-risk country, you will be well advised to talk with other NGOs to understand the environment.

HOW CAN YOU PROTECT TRADEMARKS AND OTHER INTELLECTUAL PROPERTY IN A PARTICULAR FOREIGN COUNTRY? You will need to consider whether you have valuable trademarks, copyrighted materials, or other so-called *intellectual property*. If so, you may need to take steps to protect your organization from others who might seek to use and profit from your valuable intellectual property.

ARE YOU SUBJECT TO PRIVACY PROTECTION REQUIREMENTS? Many countries, notably throughout Europe, regulate the collection, use, and transfer of personal information. Nonprofit organizations may become subject to these laws, for example, when they maintain databases of members or beneficiaries of their programs.

WHAT FOREIGN TAXES APPLY, AND HOW CAN YOU MINIMIZE THEM? As your organization moves along the spectrum of international activities, it is more likely to become subject to a variety of foreign taxes. Some taxes may be an unavoidable cost of operating, and others may be legally avoidable with some careful planning.

Creating a regular presence in a local country, for example by leasing an office, hiring an employee, or even sending U.S. staff or volunteers for extended periods, may subject a U.S.-based organization to that country's income tax. Individual employees that spend extended time in a foreign country, as well as locally hired employees, may become subject to individual income tax, and the organization may have income tax withholding and/or social tax obligations. Organizations that send goods in kind to foreign countries may also have to deal with customs duties.

Many countries have *value added tax* (VAT) regimes. These taxes are often unfamiliar to Americans. A U.S.-based organization that engages in purchasing or selling in a foreign country may well need to familiarize itself with VAT compliance requirements.

HOW CAN YOU FIND THE RIGHT LAWYER IN A PARTICULAR FOREIGN COUNTRY? Once you have decided to operate in a foreign country, you will need to consult with a lawyer. Taking the time to find the right lawyer in the right location can save you significant time and money.

Keep in mind that, in many countries, local laws and policies may play just as big a role, if not bigger, than national-level laws and policies. Find a local lawyer who works in the locality where you intend to operate. You should also talk to other organizations working in that area to find out about unwritten practices and requirements.

Affording Tax Benefits for U.S. or Foreign Donors

It's important to be aware, that (with very limited exceptions, discussed in Chapter 7) U.S. tax law affords an income tax deduction only for funds contributed to a 501(c)(3) organization formed in the United States (that is, under the laws of any state or the District of Columbia, or any U.S. possession). On the other hand, U.S. citizens and residents are eligible for estate and gift tax deductions for charitable gifts and bequests made directly to foreign organizations, subject to certain conditions.[8]

In addition, to ensure that donors' contributions are eligible for income tax deductions, a U.S. 501(c)(3) organization must avoid acting simply as a mere pass-through for contributions destined overseas. Your organization may have donors who want you to commit to regranting their contributions to a specific foreign organization or individual. You will need to put some procedures in place to be sure that your organization retains sufficient control over the funds so that you can be sure they are used for 501(c)(3) purposes. This is discussed further in Chapter 2.

If your 501(c)(3) organization is sending funds outside the United States, you will probably want to form the organization as a nonprofit corporation and not a charitable trust. This is because, due to a historical quirk in the federal tax law, U.S. corporations that make contributions to 501(c)(3) organizations can take income tax deductions only if the recipient organization is a corporation and not a trust.[9] So, unless your organization is a family foundation, you will probably want to retain flexibility in the event that some corporation wants to contribute funds to further your overseas mission, and/or in the event that your donors are eligible for matching contributions from their corporate employers.

If you seek to raise funds in multiple countries, you need to consider how you can ensure that your donors are eligible for whatever tax benefits are afforded by their country of residence. Most countries provide some form of tax benefit for charitable giving, but the level of tax benefit, and therefore value of tax benefit to the donor, varies widely among countries. Not all countries afford tax benefits for contributions that are destined for overseas projects, and those that do often impose restrictions on the use of the funds, the destination, and/or the way the fundraising organization is controlled or operated.

If you want to raise funds from non-U.S. citizens or residents, in most cases you should not ask them to contribute directly to your U.S. 501(c)(3) organization. Rather, with limited exceptions, you will need to explore creating a separate foreign organization (such as something similar to a nonprofit corporation under the laws of the foreign country) in the country in which you want to raise funds. Alternatively, you may be able to work with an established organization to raise funds in another country.

The key point here is, do your homework. If you want to raise funds from non-U.S. donors, find out whether tax benefits are important. Then determine whether, and how, you can create a structure that affords tax benefits for donors who support your cause.

These issues are explored further in Chapter 7.

Complying with U.S. Laws that Regulate International Activities

While a myriad of U.S. laws could come into play, we will focus on those that most commonly apply to international nonprofits. These requirements become more complex as you move along the spectrum of international activities. A nonprofit organization that is formed in the United States is subject to various U.S. laws that regulate its activities, even when the activities are entirely outside the United States.

Following is a list of important U.S. legal considerations for U.S.-based international nonprofit organizations. Each of these is discussed in more detail throughout this book. Of course, any particular nonprofit organization may be subject to a variety of additional federal, state and local laws and regulations.

ANTI-TERRORISM REQUIREMENTS All organizations that have international activities, including grantmakers, must take steps to avoid supporting terrorist activities, even inadvertently. Since the terrorist attacks of September 11, 2001, a number of federal laws, regulations, and policies have been implemented, providing severe sanctions against U.S. organizations and individuals that provide funds or assistance to terrorist organizations. Under some of these programs, a U.S. charitable organization may have its assets frozen, or may face civil or criminal penalties, for unknowingly providing funds, in-kind donations, or even humanitarian assistance to foreign terrorist organizations.

EXPORT CONTROLS AND ANTI-BOYCOTT LEGISLATION The U.S. federal government imposes a complex web of restrictions on the exportation of certain goods and technologies to foreign countries. Some of these restrictions are country-specific. Some exemptions are available for humanitarian aid, but it may be necessary to obtain a license.

U.S. ANTI-BRIBERY LAW It can be very difficult to operate in many developing countries, where bribery is a way of life. You may hear the phrase, *everybody does it*. Regardless of where you draw your ethical lines, U.S. law imposes criminal penalties for bribing foreign officials. The mere fact that something is common practice in a particular country does not mean you can do it without risking serious sanctions.

U.S. RESIDENTS WORKING OVERSEAS U.S. citizens and permanent residents (as well as those who meet certain residency tests for U.S. federal income tax purposes) are subject to U.S. federal income taxes, even on income they earn while working outside the United States. They may also have to pay taxes in a foreign country. When thinking about how to staff foreign operations, for example with U.S. or local country nationals, you need to take into account U.S. and foreign tax considerations. It may turn out to be very expensive to staff foreign operations with U.S. individuals, due to taxes as well as travel and other expenses.

1.7 The Importance of Vigilance

No matter how important your mission is, and no matter how much effort you devote to properly structuring your organization, things can go horribly wrong if you don't have the right people and processes in place. Just ask Madonna, the celebrity singer, or Greg Mortenson, the best-selling author of *Three Cups of Tea,* which describes his experiences while building schools in Afghanistan.

Madonna raised millions of dollars from celebrities in the United States for the laudable purpose of creating a girls' school in Malawi, where very few girls ever attend high school. Yet, despite the good intentions and success in raising funds, the project had to be abandoned after running out of funds amidst allegations of mismanagement and misuse of funds by the charity's executives, both in the United States and in Malawi. Instead of a showcase school, she was left with a lawsuit by former employees in Malawi, and a possible IRS investigation.[10]

Greg Mortenson founded the 501(c)(3) organization, Central Asia Institute (*CAI*), to build schools in Afghanistan, and wrote about CAI's charitable activities in his best-selling book, *Three Cups of Tea*.[11] However, Mortenson and CAI came under fire in 2011 amidst reports that many of the schools he claimed his organization built in Afghanistan were either nonexistent or empty. In some cases, buildings were built, but there was no follow-through with real educational programs.[12]

In addition, the Montana Attorney General launched an investigation into the use of funds contributed to CAI, and ultimately found that funds had been misused for purposes such as Mortenson's personal travel. A settlement with the Montana Attorney General allowed CAI to continue operating, but Mortenson was required to resign as executive director, and the entire board was replaced. Mortenson was required to repay $1 million to CAI to reimburse it for the misuse of funds for personal purposes.[13]

For our purposes here, the lesson is that it's not easy for U.S.-based organizations to manage projects in foreign countries, no matter how well intentioned. To be sure, no nonprofit organization is immune from the risks of misappropriation of funds, loss of focus, or just plain poor execution of programs. However, organizations that operate in the international arena have additional challenges in carrying out their missions. It takes extra vigilance, and resources, to monitor programs that are conducted in foreign countries. The legal landscape, both U.S. and foreign, becomes more complex as operations expand overseas. Meanwhile, board members who are passionate about the mission, but unfamiliar with the foreign terrain, may be all too willing to defer to a knowledgeable founder or chief executive.

Choose Board Members Carefully

You can see that, when you are operating in the international arena, there's a lot to be on top of. While it may be tempting to choose your board members for their fundraising abilities alone, that strategy will not ensure success for your organization. Madonna, Greg Mortenson, and many other celebrities were great fundraisers, but lacked the vigilance needed to keep their organizations out of trouble. You need board members who pay attention and ask probing questions.

Follow the Money

Whether your organization is making cross-border grants, or directly operating programs abroad, you need to be vigilant about how funds are being used. Misuse of funds can, of course, incur the wrath of donors, but can also trigger legal problems at the state level, and even loss of federal and/or state tax-exempt status. The IRS and many states' attorneys general are scrutinizing the activities of nonprofit organizations engaged in international activities. Your organization cannot afford to be lacking in so-called *internal controls*, or processes for ensuring that funds are used for their intended purpose.

If your organization is making grants to programs operated by a foreign NGO, you need to insist, up-front and in writing, on financial and narrative updates. Investigate and develop relationships so that you know you are working with people you can trust. Even with that, there is no substitute for first-hand observation. So, if at all possible, have staff, board members, or volunteers make periodic site visits to ensure that your grants are being used for the intended purposes, and the programs you are supporting are operating as expected.

The same concerns exist if your organization is directly operating programs abroad. You will have to rely on people who are on the ground, possibly in a remote location. They may be collaborating NGOs, U.S. staff or volunteers who spend time overseas, or locally hired staff. In any case, the use of funds, and operation of programs, must be monitored. Do not be tempted to expand your operations for the sake of a great mission, at the expense of devoting the necessary resources for careful monitoring of operations.

1.8 So, You *Still* Want to Be a Global Nonprofit?

If you are still passionate about pursuing your mission after reading this chapter, then you are ready to learn more. The following chapters provide the information you need to decide which model of international activities is right for you, and will arm you with the questions you'll need to ask as you plan your project. With some careful, up-front attention to legal and practical matters, you are more likely to succeed in turning your vision into reality.

Notes

1. You can find a more extensive list of U.S.intermediaries on the website of the United States International Grantmaking Project, available at www.usig.org. For a list of organizations that fund projects in Africa, *see* Buchanan, Rob and Jayne Booker, *Making a Difference in Africa: Advice from Experienced Grantmakers* (Arlington, VA: Council on Foundations, 2007), 103, available for purchase at www.africagrantmakers.org/index.asp?PageURL=126#advice_grantmakers.
2. A useful resource for identifying foreign country intermediaries is the website of Worldwide Initiative for Grantmaker Support (WINGS), available at www.wingsweb.org.
3. As reported by Rick Cohen, "Chinese Press Targets Charitable Irregularities in Henan," *Nonprofit Quarterly*, September 7, 2011, available at www.nonprofitquarterly.org/updates/15601-the-chinese-press-targets-charitable-irregularities-in-henan.html.
4. *See* Rev. Rul. 71-460, 1971-2 C.B. 231; Rev. Rul. 68-117, 1968-1 C.B. 251.
5. *See* Douglas Rutzen, "Practice Note: Egypt and the Catalyst Constraint," *International Journal of Not-for-Profit Law* 14, no. 1–2 (April 2012), 49–51, available at www.icnl.org/research/journal/vol14iss1/index.html.
6. "Defending Civil Society," co-authored by International Center for Not-for-Profit Law and World Movement for Democracy Secretariat at the National Endowment for Democracy, *International Journal of Not-for-Profit Law*, 14, no. 3 (September 2012) ("Defending Civil Society Report") 27–29, available at www.icnl.org/research/journal/vol14iss3/art1.html; David Moore and Douglas Rutzen, "Legal Framework for Global Philanthropy: Barriers and Opportunities," *International Journal of Not-for-Profit Law* 13,

no. 1–2 (April 2011), 17–23, available at www.icnl.org/research/journal/vol13iss1/index.htm.

7. Defending Civil Society Report, *supra* note 6, at 17.
8. IRC §§ 2055(a)(2), 2106(a)(2)(A)(ii), 2522(a)(2).
9. IRC § 170(c).
10. *See* Claire Provost, "Madonna's Folly in Malawi," *The Guardian*, March 30, 2011, available at: www.guardian.co.uk/commentisfree/2011/mar/30/madonna-malawi-charity. Subsequently, in 2012, Madonna announced that she was partnering with an existing organization to build multiple schools in Malawi. Meanwhile, millions of dollars that had been contributed for the original project remained unaccounted for. *See* David Smith, "Madonna's new school pledge angers Malawi officials," *The Guardian*, February 23, 2012, available at www.guardian.co.uk/music/2012/feb/23/madonna-schools-pledge-angers-malawi-officials.
11. Mortenson, Greg and David Oliver Relin, *Three Cups of Tea: One Man's Mission to Fight Terrorism and Build Nations . . . One School at a Time* (Perfection Learning, 2007).
12. *See* CBS 60 Minutes segment, "Questions Over Greg Mortenson's Stories," April 17, 2011, available at www.cbsnews.com/2100-18560_162-20054397.html?tag=contentMain;contentBody.
13. *See* Matt Pearce "'Three Cups' Author Must Pay $1 Million to Charity," *Los Angeles Times*, April 5, 2012, available at www.latimes.com/news/nation/nationnow/la-na-nn-greg-mortenson-central-asia-institute-20120405,0,3566022.story.