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## The International Issue

### Safe and Secure: Supporting International Staff

By Eric Henkel

The safety and well being of employees is generally a top-of-mind concern for nonprofit leaders. When an organization deploys its staff internationally, additional uncertainty enters the already complex risk landscape. Deployed staff members may work in limited resource environments or in conditions of cultural and political instability. Issues that might seem routine at home (preventative or minor medical care, travel-related incidents) require additional resources when dealt with in many international settings. Stakes

escalate considerably in the event of emerging natural or man-made crises (weather disasters, epidemics, random or planned physical violence).

*The Duty of Care and Travel Risk Management Global Benchmarking Study* (2011) conducted by International SOS identified members of the nongovernmental organization (NGO) sector as being highly aware of travel-related threats and vulnerability to harm. Despite that awareness, a perennial challenge is translating general concern about staff safety into practical, sustainable strategies

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# Risk Management ESSENTIALS

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to address perceptions as well as real vulnerability to harm.

### Culture Counts

The starting point of addressing safety and security of staff is the culture of the organization. The Occupational Safety and Health Administration (OSHA) encourages employers to develop a strong safety culture, as it might have the single greatest impact on incident reduction, compared to other safety initiatives. According to OSHA, a safety culture consists of shared safety beliefs, attitudes and practices that exist at a workplace. This type of operating mindset can influence how employees behave at work, better enabling them to focus on maintaining a safe environment. Though culture takes time to change, NGO leaders can work to support these key elements of a safety culture:

- **Staff members place personal safety above the preservation of assets:** Any smart nonprofit leader recognizes that employees are the organization's most valuable assets. Teach your employees to think this way, and ensure that everyone places personal safety above the preservation of the nonprofit's property, including cash, supplies, vehicles and other equipment. If a safety incident arises, employees should first protect themselves and their colleagues, and only then worry about personal and organization property.
- **Staff members trust their own appetite for travel- and safety-related risks:** Though international travel might be at the core of your mission, always trust a staff member's gut if s/he tells you s/he isn't comfortable going on the next trip. Staff and volunteers should have the right to refuse any travel assignments or specific duties based on

concerns about safety and security. Reporting these concerns should be voluntary and protected, so that an employee can communicate tolerance for travel risk without risking status at your organization.

- **Financial considerations are never the primary driver for decisions about safety:** The safety of employees and volunteers must always come first—even above financial considerations. If you do not have the resources to invest in safety and security for a new program, then the program should probably remain in limbo until resources become available.
- **The organization regularly assesses the safety risks present in all of the countries, offices and regions where staff members work:** Invest in continual monitoring of the safety and security landscape in each country you work in. If you plan to deploy staff to new locales, begin risk assessments early on to get a better understanding of unique safety and security challenges you might face. Whenever possible, involve local security agencies or local staff in risk assessments; the on-the-ground perspective is essential to include and will likely offer you a more practical, realistic grasp of pressing safety and security issues.
- **Safety incidents become teachable moments, not punishable moments:** In some instances, a safety incident or near miss might warrant discipline if an employee was clearly behaving callously or was snubbing safety protocols. In other cases, safety and security incidents arise from a series of errors, poor decisions, or inaction taken by more than one person. Rather than looking for a

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safety scapegoat to take the blame when things go wrong, ensure that every safety incident becomes a teachable moment for your entire team. Communicate the results of incident investigations, involve diverse staff in brainstorming necessary changes to safety protocols, and reinforce the concept that reporting hazards and safety concerns is encouraged, voluntary, and protected.

- **Leaders take safety seriously:** ‘Tone at the top’ is a tried and true concept that can make a huge impact on your safety culture. Employees are more likely to follow the safety and security processes you put in place if senior leaders live by them too. If even one senior leader rejects a safety measure, that behavior speaks volumes to staff members. Ensure that your leaders take safety seriously and are held accountable for decisions that undermine your safety culture and protocols.
- **Safety is simple and stress-free:** Safety and security protocols often feel onerous to staff members, and

onerous administrative tasks can be easily ignored or skirted around in favor of mission-focused work. Whenever possible, implement safety and security protocols that are simple and stress-free, and do not present undue burden on your staff members. For staff members who work in high-risk areas frequently, or for local staff who work in their home environment, remember that safety and security risk might feel like part of a regular day. Safety protocols should also feel as organic as possible.

### *Putting It All Together*

Supporting and integrating the key elements of a safety culture can be time-consuming if your organization hasn’t made it a priority in the past. However, to begin the process of integrating safety culture into the fundamental culture of your organization, there are several steps you can take. Some tips for integrating safety culture include:

- **Spread the Philosophy** – The understanding that safety is a priority and safety requirements

“The safety of employees and volunteers must always come first—even above financial considerations. If you do not have the resources to invest in safety and security for a new program, then the program should probably remain in limbo until resources become available.”



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are to be taken seriously is an important message to convey to individuals at all levels of the organization. In addition, every individual staff member or volunteer should feel empowered to take actions related to increasing safety and security and making these issues the highest priority. Personal responsibility and action are the foundation of effective safety and security efforts.

- **Write it Down** – Along with a spoken philosophy on increasing safety in your organization, policies should be put in place to ensure that staff know what they are expected to do, and what supports are in place to help them do it. If your organization does work in different countries, consider modifying your policies to specifically reflect the safety and security needs of each location. Make sure that your policies are reviewed and revised regularly to reflect information provided by on-site staff related to the changing safety and security conditions.
- **Team Up** – Consider creating Security Committees or Security Teams in each country where your organization does work. These teams might be responsible for reviewing incidents that have occurred and determining what changes need to be made based on lessons learned from them. Security Committees might also be tasked with reviewing and revising the safety policies on a periodic basis.
- **Simplify Reporting** – Make sure that all staff members understand that it is part of their job to report safety incidents or potential threats to safety. Make reporting as easy as possible by creating a reporting



form. Many organizations choose to make their reporting form accessible online. That way reports can be consolidated and reviewed by headquarters, even if they are being dealt with by in-country teams. Allowing anonymous reporting may also serve to increase reporting compliance.

- **Outline Emergency Procedures** – Whether included in each in-country policy or outlined in a separate document, make sure that staff have access to information on how to respond in an emergency. Emergency guidelines might include evacuation procedures, a complete list of current staff, and contact information for individuals who will be able to assist with the response.
- **Resolve to Stay in Touch** – Many NGOs have in-country operations with locally-based staff, and also use US-based staff who travel internationally. For those staff members who are travelling to a foreign country, it is especially important to ensure that they

are familiar with the safety and security protocols of each country to which they travel. Creating an introductory kit that includes all written policies and contact information for assistance in emergencies is one way to help bring those staff members up to speed on the safety environment. Your organization might also schedule one or more check-ins with travelling staff members to ensure that they are safe and have the information they need.

### *Prioritize Safety*

Once your organization begins working internationally, it is important to recognize that obtaining diverse perspectives, especially from on-the-ground staff members, will be essential in creating useful and practical safety and security protocols. Team members from different functions or departments may play a role in supporting your efforts and helping creating the most effective materials possible.

As your organization expands operations into new countries, also

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remember that safety and security must be integrated into the culture, the policies, and the services you provide. Reflecting on organizational culture as you work to create a safe and secure environment will ensure a smoother commencement of operations, and most importantly, help staff be safe while providing services on behalf of your organization.

Eric Henkel is Project Manager at the Nonprofit Risk Management Center. He welcomes your questions about any of the topics covered in this article. Eric can be reached at 703.777.3504 or [Eric@nonprofitrisk.org](mailto:Eric@nonprofitrisk.org).

## RESOURCES

*Duty of Care and Travel Risk Management Global Benchmarking Study* (2011), International SOS, [www.internationalsos.com/duty-of-care](http://www.internationalsos.com/duty-of-care)

U.S. State Department International Travel Warnings and Alerts, <https://travel.state.gov/content/passports/en/alertswarnings.html>

U.S. State Department Traveler's Checklist, <https://travel.state.gov/content/passports/en/go.html>

*Global Risk News*, by Joe Gleason, [www.ahtins.com/blogs/global-risknews](http://www.ahtins.com/blogs/global-risknews)



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## Case Study

**Who:** A nonprofit culture organization that produces large-scale events

**Strategy:** To provide risk management and youth protection training to event volunteers

**Results:** Our work included the delivery of a custom-built online portal featuring courses and resources for volunteers and other stakeholders. To read additional case studies, visit: [www.nonprofitrisk.org/consulting%20Services.pdf](http://www.nonprofitrisk.org/consulting%20Services.pdf).



## Go Global & Get Local: Complying with International Employment Laws

*By Emily Stumhofer*

Beginning work in a new country can be very exciting and a great way to further your organization's goals and mission. Whether your organization provides educational opportunities or medical care or aid after an emergency, providing services in another country can open the door to a variety of new opportunities and challenges. When determining whether to expand your nonprofit's offerings to a new country, there are many important things to review and consider. Major factors that will play into your decision will include the amount of resources (money, supplies, people) your nonprofit has available, the needs of the target country, and the legal landscape for employment and charity services in the target country.

### *Finding Workers to Fulfill Your Mission*

Once you have decided to start working in a new country, two of the biggest decisions you will need to make are what type of employment arrangement to use, and who to hire to further your mission. It is important to understand that an employee hired to work in a foreign country will be subject to the local employment laws of that country. This means that a full understanding of the intricacies of the country's laws is necessary. Some of the potential options for utilizing workers for your operations overseas include:

- Using United States-based personnel solely
- Contracting with an organization (or sole practitioner) local to the

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community or country where you are starting operations

- Forming a partnership with another group, such as another U.S.-based NGO already present in the country
- Hiring local workers to fill open positions in the new locale

Many United States-based NGOs will end up choosing a combination of the above to fulfill their employment needs and ensure that the mission and goals of the organization are the focus for the work done in the new country. For the purposes of this article, the primary focus will be on hiring local workers to fill open positions for your nonprofit.

### *Hiring Workers Abroad: How is it Different?*

Once your organization has decided to recruit new workers internationally, the first thing you'll need to do is figure out whether there are specific rules and requirements for the recruiting process that are different from those that are typical in the United States. Some of the areas where laws may differ in the early phases of recruiting include:

- **Interviewing** – when it can be done and what types of questions can be asked
- **Selection criteria** – what guidelines or criteria are permissible
- **Reference checking** – when and if it is allowed, and whether there are limitations
- **Pre-employment requirements** – whether tests or preliminary assignments can be given prior to hiring
- **Employment contracts** – whether they are allowed or required
- **Non-compete** – whether they are allowed, or restricted in scope

The primary thing to remember when hiring abroad is that each country will require a different approach. Trying to design and implement a single approach to use in every country where your organization does work (or is considering doing work) is not practical.

### *Complying with Local Employment Law: What You Need to Know*

Once you have appropriately hired new employees compliant with the recruiting laws in the country

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Although a comprehensive, universal employee handbook is not practical for an organization with operations in numerous countries because of internationally diverse employment laws, creating a global code of conduct can be a good way to outline your nonprofit's general expectations...

where you are working, there will be numerous additional laws with which your nonprofit will need to comply regarding human resources decisions, including:

- Discipline
- Changes in pay amount or frequency
- Overtime pay
- Changes in title or duties
- Dealing with leave requests or tardiness
- Discrimination
- Employment at-will
- Termination

Several areas of the law are frequently divergent from the laws of the United States. Some of the more common areas that you will want to consider include:

*Time-off Laws* – Many foreign countries are more generous than the United States in providing time off benefits to their employees. Understanding the differences and expectations of workers in a new country is important prior to hiring. The United States has no statutory minimum paid vacation or paid public holidays; therefore, employers are free to set these benefits. Conversely, many countries in Africa require employers to provide their workers with a specific amount of paid leave and paid holidays.

*Union Power* – There are several countries where unions have quite a bit of power, and working conditions are guided by the power of the unions. Understanding the differences from law in the United States, and the parameters of decision-making your nonprofit as an employer can make are essential. Unions are especially complex in some countries, such as China, where the All-China Federation

of Trade Unions (ACFTU) is the only lawful trade union nationwide—and is also government controlled.

*Employee Privacy* – Some laws are incredibly strict about protecting the privacy of employees and even the publication of something as innocuous as an employee directory may run afoul of the law. For example, some European countries prohibit ongoing monitoring of employee communications unless the employer has concrete suspicions of wrongdoing.

### *International Employment Law Compliance Tips*

■ **Don't Assume that Another Country's Laws Are Similar to Laws in the U.S.** – One important legal area where the laws of many countries (including Canada and Australia) diverge from common U.S. law is in the area of at-will employment. In most states in the U.S., employees are hired at-will, meaning the employment relationship can be terminated at any time by either party. In many other countries, at-will employment is not recognized. Instead, employees may have more significant protections which prevent them from being terminated.

■ **Customize Your Employee Handbook** – Many of the topics your nonprofit covers in the employee handbook are related to the employment law environment in the United States. When hiring workers overseas, you will not want to blindly apply your U.S. employee handbook to those workers. Instead you will want to review the provisions therein to ensure that they are aligned with the local laws. Additionally, while



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most employee handbooks in the U.S. contain a disclaimer that they do not constitute an employment contract, in many other countries, employee handbooks are treated as binding contracts, regardless of any disclaimer language.

- **Create a Comprehensive Code of Conduct** – Although a comprehensive, universal employee handbook is not practical for an organization with operations in numerous countries because of internationally diverse employment laws, creating a global code of conduct can be a good way to outline your nonprofit’s general expectations in a more appropriate way. When creating a code of conduct, a committee from your organization might determine what basic rules and standards of conduct are non-negotiable for employees and other representing your nonprofit, regardless of where they occur. The code of conduct should be accompanied by training for employees, so the importance of the issues to your organization’s mission can be conveyed, and employees will have the opportunity to ask questions about your expectations to ensure that they understand how to comply with them.
- **Get Perspective from Locals** – Even if your organization has retained U.S.-based employment counsel, you may find it helpful to consult with individuals living in the country into which you wish to move. In addition to understanding the legal requirements, having a deeper understanding of the local culture and mentality toward

foreign NGOs may help give your nonprofit a head start in hiring and creating a strong connection to the new country.

- **Audit Your Approach to Employment Law Issues** – Once you have created your system for recruiting and handling HR issues in a new country, it is important to review your process periodically. This type of review should be designed to make sure that your current processes are compliant with applicable law, and are still the most effective way to deal with employment in each country. When undertaking an audit, review all policies and practices in each country, and have legal counsel oversee the entire process, or at least review the findings. An audit may expose areas of risk, or it may expose areas where your policies and procedures can be strengthened and made more efficient.

### *Conclusion*

Thoroughly understanding and complying with international employment laws is only one piece of the larger puzzle of undertaking operations in a new country. Taking a thoughtful and deliberate approach to considering expanding operations is a good way to make sure that you are thinking through all the possible new areas of exposure that your nonprofit may face in a new country. A careful analysis of the potential costs and benefits associated with expanding into each new country you consider will help your nonprofit plot the way forward, and make compliance a priority.

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## We Are the World: International Staff Screening

By *Melanie Lockwood Herman*

Your goal of recruiting capable staff members who bring different perspectives and diverse backgrounds to your mission may lead you to seek and consider applicants who have worked, lived, or even studied in a country on the other side of the globe. A recent survey by HireRight indicated that more than half of employers are considering applicants who have studied or worked overseas.

While the staffing needs of nonprofit organizations vary to a great degree, there is ample evidence that the commitment to appropriate, consistent screening of prospective employees and volunteers is deepening within mission-driven organizations. As discussed in the Center's book, *Staff Screening Notebook: 10 Steps to Quality Staffing*, "The advent of the Internet heralded a giant step in the amount of easily available information concerning applicants for paid and volunteer positions." How might

traditional screening mechanisms be made more relevant to organizations considering international applicants?

### *Reference Checking*

The Center advises all nonprofit employers to consistently check references for the finalists for regular staff positions and most volunteer roles. Reference checking provides a wonderful opportunity to obtain information about a candidate from someone other than the candidate! At the Center we check references before we conduct finalist interviews. Why? We don't want our reference check conversations to be biased by the positive or negative impressions formed during an in-person interview. Additionally, references might allude to skills or qualities possessed by the applicant that you wish to explore further during an in-person interview.

The world gets very small after a while, if you stick around long enough. – Edie Falco

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The advent of affordable calling plans that include many international locations has made checking overseas references cheaper than ever. Hence, there is no excuse to exclude former international employers from your reference checking process. Resolve to check a minimum of three references as part of the screening process for all paid positions, and most volunteer roles.

From time to time you might speak to a reference who indicates that it is ‘company policy’ not to provide references, aside from ‘title and dates of employment.’ In these situations, try stating, “I understand. I have two simple questions.” In some situations, a reluctant reference may be willing to answer the following two questions:

- “Would you have any hesitation placing this candidate in a position of trust with respect to \_\_\_\_\_?” (children, elderly clients, financial assets, etc. Fill in the blank with the word(s) based on the work the applicant would be doing at your nonprofit.)
- “What can you share with me about your management style so I can assure that this applicant enjoys as much success at our firm as s/he did under your direction?” Or “What should I know about your firm or work environment that we can emulate here to ensure the applicant enjoys as much success as s/he did at your organization?”

The second question and its variation above is a favorite of Amy Davidson, a career HR leader who currently serves as Director of Human Resources at American Jewish World Service, a Center consulting client. According to Amy, offering the reference a compliment encourages candor.

### *Academic Degree Verification*

If a specific educational credential, such as a bachelor’s degree, is required for an open position, then take the time to verify that the finalists indeed possess the required degree from the institution listed on their resume or application. The verification process may be easier than you first thought, as many colleges and universities subscribe to a national service offering degree verification and student transcript services.

According to an online survey conducted by Harris Poll on behalf of CareerBuilder, job applicants commonly lie about their academic degrees. Across the 2,188 hiring managers and HR professionals participating in the poll, lies about academic degrees were recognized as the fourth most common resume fabrication after embellished skill set, embellished responsibilities, and dates of employment and job title. Add to the picture the existence of ‘diploma mills’ that generate faux certificates of completion for a fee; employers can’t be too careful in this facet of screening.

### *International Background Checks*

Conducting international background checks remains a challenge for many nonprofits that are otherwise committed to a screening process that includes background checking. What makes conducting international background checks so hard?

- First, most record checks used by nonprofits are name-based checks that require an applicant’s name, date of birth and Social Security number. Foreign applicants don’t have the latter piece of information.

## *Common Excuses for Not Screening Foreign Applicants*

According to a 2013 poll conducted by the Society for Human Resource Management (SHRM), the most common reasons for not screening prospective workers from outside the U.S. are:

1. International background checks are for organizations based overseas or companies that hire large numbers of foreign workers
2. It’s difficult to know where to start
3. International background screening is overly complex
4. International background checks take too long
5. Background checking globally is unaffordable or costs too much

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## Background Checking Q&A

To better understand some of the challenges associated with international background checks, I reached out to Kim Chochon, VP of Partnerships at Verified Volunteers, a background checking firm with a large nonprofit customer base.

**Q.** What are some of the challenges obtaining background check information on foreign applicants, or US citizens who have recently lived overseas?

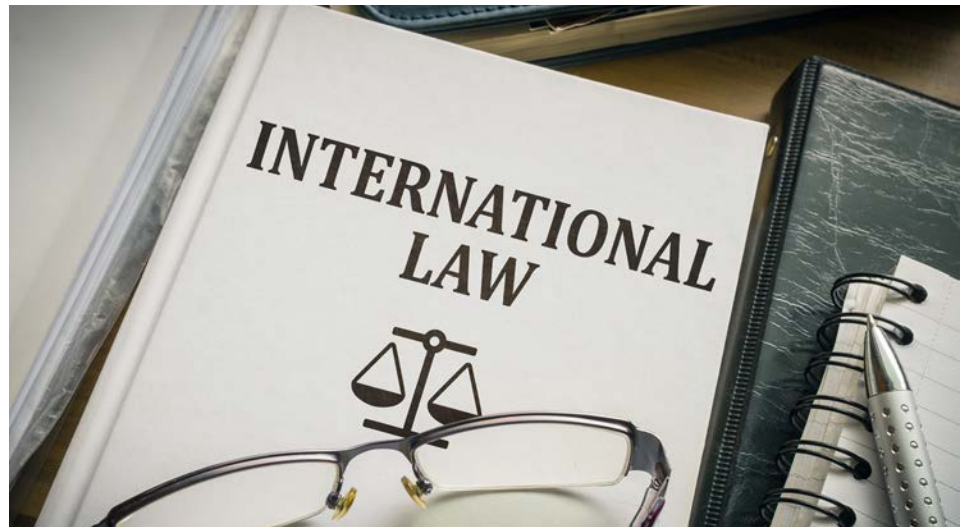
**KC:** "International background screening can be expensive and complicated, especially trying to understand the varying laws of each country. Outsourcing the process to an experienced 3rd party vendor with global expertise can significantly help streamline efficiencies."

**Q.** Are there different types of international background checks? If so, what are the principal differences?

**KC:** "There are different types of international background searches including, but not limited to, Criminal (i.e. Comprehensive, Police clearance authentication), Identity (i.e. Passport validation, National Identity Validation, Right to Work Validation, Driver's License check), Verifications (i.e. Education, Employment, References, etc.), and Financial (i.e. Credit, Bankruptcy, etc.), amongst others."

**Q.** Do you have any final tips to share on conducting international background checks?

**KC:** "The keys to global screening success are: 1. knowing where to search, 2. knowing what to search for, and 3. understanding compliance requirements in the countries where you are conducting background checks."



- Second, each country has its own laws and practices related to the collection and sharing of criminal records. Discrimination laws pertaining to how criminal history information may be used also vary.
- Third, there is no global criminal records database, which means that an employer considering a foreign applicant or U.S. citizen who has worked or studied overseas may have to check the records of multiple countries. Still, there is no guarantee that any records repository will be complete.
- Fourth, some employers perceive that international background checks take too long. Many organizations note time to hire as an HR or recruiting metric, and HireRight's 2013 *Employment Screening Benchmarking Report* confirms the perception among employers that international background checks take too long.

International applicants or U.S. Citizens who have worked or studied abroad are likely to be in your pool of candidates for paid and volunteer positions. Although international screening steps may require additional time and cost, your mission warrants

the extra effort it takes to thoughtfully screen applicants from an increasingly diverse pool.

Melanie Herman is Executive Director of the Nonprofit Risk Management Center. We welcome your questions about screening staff at [Melanie@nonprofitrisk.org](mailto:Melanie@nonprofitrisk.org) or 703.777.3504.

### INTERNATIONAL SCREENING RESOURCES

*Staff Screening Notebook: 10 Steps to Quality Staffing*, Nonprofit Risk Management Center

"Benefits of Global Employment Screening Outweigh the Costs," Society for Human Resource Management, <http://blog.shrm.org/workforce/benefits-of-global-employment-screening-outweigh-the-costs>

2016 HireRight Employment Screening Benchmark Report, [www.hireright.com/assets/uploads/files/HireRight2016BenchmarkingReport.pdf](http://www.hireright.com/assets/uploads/files/HireRight2016BenchmarkingReport.pdf)

2013 HireRight Employment Screening Benchmark Report, [www.hireright.com/resources/view/2013-employment-screening-benchmarking-report](http://www.hireright.com/resources/view/2013-employment-screening-benchmarking-report)



## Foreign Agent Registration & Funding Restrictions for NGOs

By Erin Gloeckner

Any U.S.-based nonprofit that operates internationally must cling to a complex web of regulations in each country where its presence is felt. Local labor laws, restrictions on financial transactions and banking, and restrictions on the use of foreign consultants are just a few of the hoops that U.S. non-governmental organizations (NGOs) must jump through to support grantees and programs in other countries.

While most NGOs exist for completely altruistic reasons—in the hopes of advancing human rights, health, economic prosperity, democracy, and conservation—many governments across the world place a high level of scrutiny on NGOs, due to concerns that foreign entities and their foreign funding suggest political influence from outside nations. Some governments might also be wary of cultural influences from visiting NGOs, which potentially threaten to alter local customs and power structures. To continue operating internationally,

NGO leaders must stay informed of changing laws that require foreign entities to jump through hoops—some purposefully difficult—before providing aid in specific countries.

Due to the scrutiny around foreign funding and potential political influence entering a nation by way of its NGO host, most nations require NGOs and other foreign entities to register with the local government—and often abide by additional stipulations—before they can legally operate in that state. Depending on which nation an outside NGO wishes to operate in, registration could be relatively simple or complex. While on its face, a nation's foreign entity registration law is likely directed at organizations engaging in 'political activities,' many of these laws are so broadly written that they apply to the work of NGOs—especially those that receive funding from outside the nation.

Russia recently received perhaps the loudest international outcry against its

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To continue operating internationally, NGO leaders must stay informed of changing laws that require foreign entities to jump through hoops—some purposefully difficult—before providing aid in specific countries.

registration laws, called ‘foreign agent laws’—a title which, as assumed by NGO advocates around the world, means to evoke Cold War-like feelings aimed to galvanize the nation’s citizens against the presence of NGOs. Since instituting its foreign agent law in 2012, Russia amended the law to allow the state to register NGOs without their consent, after NGOs around the world initially pushed back against registration and its stigma. In 2015 Russia restricted NGO activity further by instating a law that enabled the state to identify and shut down ‘undesirable’ organizations. The law prohibits these blacklisted organizations from holding public events, distributing promotional materials and mass media messages, and cooperating with Russian financial institutions. Persecution is said to be heavy for organizations that refuse to disband, as well as for any cooperative Russian individuals or entities. This law effectively struck at a group of prominent NGOs operating in Russia, and also forced some international funders to cut ties with their local grantees.

Both governmental and NGO critics across the world have voiced concern that rather than promoting transparency between NGOs and its government, Russia’s foreign agent laws aim to quiet the voices of Russian citizens while further isolating them from the world. Amendments made to the law in 2016 were said to clarify the definition of ‘political activity’ in order to exempt most NGOs from foreign agent registration, but many international critics believe that the adapted language more broadly encompassed most NGOs, promising an ongoing struggle between Russian authorities and local NGO leaders.

Russia is but one example of a nation electing to tighten the noose around NGOs. Since the time of the Second Industrial Revolution when the presence

of NGOs began to expand around the world, countries have enacted registration laws to regulate NGO activity. Along with foreign agent registration and scrutiny or limitations on the use of foreign funding, many countries demand additional conditions of registration.

Penalties for failure to comply with foreign agent requirements differ from country to country, but often include heavy fines or—in extreme cases—the imprisonment of NGO staff. For example, a nation that requires foreign agent registration might also require an NGO to:

- Pay a registration fee
- Seek approval of the organization name, logo and brand identity
- Brand all documentation and publications according to local regulations
- Seek approval of individual projects and related foreign funding
- Seek licenses for specific programmatic activities (e.g., provision of healthcare or education)
- Receive and manage all funding through specific banks or a single bank account
- Submit to ongoing financial review by a national oversight body
- Limit the number of foreign consultants used
- Submit annual reports of all activities
- Submit an annual audit report and, in some cases, appoint an auditor from a list approved by a national oversight body
- Submit to the inspection of bank accounts, financial records, and other organizational documents (some states retain the right to inspect NGO accounts and materials at any time)

continued on page 15



## Foreign Agent Registration & Funding Restrictions for NGOs continued from page 14

- Notify a national oversight body at the time of disbandment (or even temporary closure of offices or programs)

Foreign agent registration requirements can typically be researched through a nation's relevant government agency—oftentimes the Ministry of Justice, Ministry of Internal Affairs, NGO Affairs Agency, or Registrar of Societies. Another helpful starting point is the International Center for Not-for-Profit Law (ICNL), which maintains a [Civic Freedom Monitor](#) that provides up-to-date information on legal issues affecting civil society in roughly 50 countries. For most countries listed, the Civic Freedom Monitor comments on the relevant NGO registration body and known barriers to entry.

The United States itself passed the 1938 Foreign Agents Registration Act (FARA), which is sometimes confused with seemingly parallel laws that aim to restrict NGO activity in other nations. The purpose of FARA, according to [The U.S. Department of Justice](#), is to inform Americans and the U.S. Government of the source of information and the identity of people/organizations attempting to influence U.S. public opinion, policy and laws. FARA was a direct response to German propaganda agents present in the U.S. prior to World War II. After the fall of the Third Reich, FARA was amended to require organizations to register as foreign agents if they engage in specified activities—namely in a political or quasi-political capacity—at the order, request, or under the direction or control of a foreign principal. The U.S. Department of Justice states that foreign entities that engage in these activities in the U.S. must 'make periodic disclosure of their relationship

with the foreign principal, as well as activities, receipts and disbursements in support of those activities.'

According to the [US Embassy in Israel](#), 'U.S. law imposes no limits, restrictions, or transparency requirements on the receipt of foreign funding by NGOs operating in the United States, other than those generally applicable to all Americans.' Unlike foreign agent laws in some other countries, U.S. law does not specifically target NGOs simply because they are funded by foreign government entities or other foreign principals.

In regards to foreign agent registration, critics exist at both ends of the spectrum. NGO advocates believe that these laws bar humanitarian workers from providing much-needed support to communities around the globe, while others assert that NGO activity is a form of foreign interference that each nation has a right to scrutinize and regulate. NGO leaders must continue to be mindful of changing registration laws in each country in which they operate. Even when operating under the watch of unfriendly governments, an NGO's presence and impact is validated by the reaction of the local community that it serves.

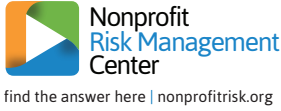
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## RESOURCES

Civic Freedom Monitor, The International Center for Not-For-Profit Law, [www.icnl.org/research/monitor/](http://www.icnl.org/research/monitor/)  
FAQs - Foreign Agents Registration Act of 1938, U.S. Department of Justice, [www.fara.gov/fara-faq.html](http://www.fara.gov/fara-faq.html) and [www.fara.gov](http://www.fara.gov)



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