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Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Colombia

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Benefit Corporation, Cooperative, Corporation, Foundation

In Colombia, philanthropic organizations (POs) are called nonprofit organizations with emphasis on their economic characteristics as opposed to for-profit organizations that have commercial goals. Additionally, the constitution guarantees the right to associate for the improvement of various societal causes. Thus, in Colombia, nonprofit organizations and associations are often used interchangeably, while civil society organizations are mainly referred to as POs that focus on human rights, gender, and inequality.

Five main social issues addressed by these organizations: Arts and Culture, Basic Needs, Environment, Higher Education, Human Rights

Average time established by law to register a philanthropic organization: 0–30 days

Average cost for registering a philanthropic organization: USD 50

The registration cost for nonprofit organizations varies based on the time of incorporation and the organization's initial equity. The government determines and regularly revises the registration fee, which was last modified by Decree 1756 of 2020.

Government levels primarily regulating the incorporation of philanthropic organizations:
Local Government

Philanthropic Environment Scores:

Year	Ease of Operating a PO	Tax Incentives	Cross-Border Philanthropic Flows	Political Environment	Economic Environment	Socio-Cultural Environment	Overall Score
2022 GPEI	4.17	3.50	3.50	3.50	3.50	4.00	3.69
2018 GPEI	4.17	3.00	3.35	2.15	N.A.	4.50	3.43

Source: Indiana University Lilly Family School of Philanthropy, 2022 *Global Philanthropy Environment Index*

Key Findings

I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three indicator questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration; (B) operations; and (C) dissolution.

Question One: To what extent can individuals form and incorporate the organizations defined?

Score: 4.0

By the guarantee contained in the Political Constitution approved by the National Constitutional Assembly of 1991 to associate, any person may organize with others in foundations, associations, corporations, cooperatives, political parties, unions, sports, and cultural organizations. Legal status for an organization occurs at the moment of its registration as determined by law. The conditions and rules for a POs' operation are determined in the statutes that they themselves establish without the interference of the government. In these statutes, a PO defines its corporate purpose, name, duration, management bodies and the forms of liquidation and dissolution.

Question Two: To what extent are POs free to operate without excessive government interference?

Score: 4.0

Fundamental constitutional rights guarantee the free right of association in the different activities carried out by people in society in accordance with Article 38 of the Political Charter. Therefore, a POs' creation and operation are a guarantee of the social state of law. However, due to the exclusionary political and administrative structure of the Colombian government, not all nonprofit organizations endure over time. There is no training in civil society from public and private education to channel the ideas of solidarity, and no encouragement for new ideas to emerge from nonprofit organizations aimed at mitigating social and political environment problems, such as poverty, conflict resolution, basic needs, the environment, early childhood, gender equity, diversity, or animal welfare.

Question Three: To what extent is there government discretion in shutting down POs?

Score: 4.5

The government has in no case discretion to close a nonprofit organization. Reasons for PO closure must be statutorily provided, otherwise the registration process will not be accepted. However, a legal entity may be canceled by court order or by a competent authority that carries out a judicial or administrative procedure regulated by law. Any associate may have access to ordinary civil justice if they consider that the bylaws or a legal norm has been violated.

II. Domestic Tax and Fiscal Issues

The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.

Question Four: To what extent is the tax system favorable to making charitable donations?

Score: 3.5

Colombian tax law establishes as a benefit a tax discount equivalent to 25 percent of the donated value. In the ongoing COVID-19 pandemic context, POs must comply with certain requirements, such as the certification of the organization's tax auditor or public accountant so that donations do not become a means to evade taxes.

Question Five: To what extent is the tax system favorable to POs in receiving charitable donations?

Score: 3.5

Only a donor may request a certification of the donation made, signed by the legal representative of the donating entity. This must contain, among other information, the value of the donation and the purpose of the donation for the donor to qualify for the tax incentive.

Additionally, the stimulus measures adopted by the government during the COVID-19 pandemic allowed for an increase in charitable donations for sectors and communities that were affected by the mandatory confinement, especially in the cities with the highest concentrations of the population with limited daily income as a result of restrictions on their informal economic activities. However, this is a transitory measure that does not necessarily translate to lasting public policy.

III. Cross-Border Philanthropic Flows

The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.

Question Six: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 3.0

The Colombian Presidential Agency for International Cooperation (APC-Colombia) is responsible for managing, guiding, and coordinating public, private, technical and non-reimbursable international cooperation received by the country, as well as executing, administering, channeling, and supporting the programs and projects with the resources of international cooperation. In the case of Venezuelan migration, which is a target population for aid, deliveries of in-kind donations are not formally accounted for by the government. However, these donations are undoubtedly cross-border donations because the families and individuals who receive them return to the neighboring country to help their families. Aid that is focused on hospital care services, medicines, or education are quantified by the regional authorities and should be centralized.

Question Seven: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

Score: 4.0

There is a rigorous control of operations with dubious origin, but these restrictions do not mean that they are obstacles to criminals. The restrictions focus on preventing the laundering of assets that in some cases are passed off as donations and investments. However, there is no legal limitation on the receipt of in-kind or monetary donations.

IV. Political Environment

The four indicator questions in the next three sections concern the political context, economic conditions, and socio-cultural characteristics that influence the environment for philanthropy.

Question Eight: To what extent is the political environment favorable for philanthropy?

Score: 3.5

Discrepancies between the philanthropic sector and the government sometimes arise during the formal registration of non-governmental organizations made in the Chambers of Commerce. On the other hand, the government does not promote a creative dialogue with non-governmental organizations because it does not recognize their role or their impact on social change at the level of public policy. There are few spaces for direct meetings between the government and civil society organizations to design and plan social initiatives.

The political environment of favorability for philanthropy in Colombia is affected not by legal provisions, but by the tensions generated by marginalization, poverty and the overall social and political situation in the country. Such situations enhance volunteering, while the corporate sector donates more due to tax exemptions. Overall, the political environment is favorable in Colombia for POs.

Question Nine: To what extent are public policies and practices favorable for philanthropy?

Score: 3.5

Favorable policies and practices that encourage nonprofit organizations by the government are not frequent and are not part of a public policy in Colombia. The governmental action enshrined in the Political Constitution is to exercise inspection and surveillance over the institutions of common utility so that their income is preserved and applied essentially in accordance with the will of the founders. In recent times, academia tends to conduct research on the third sector, for example: Pontificia Universidad Javeriana, Universidad Externado de Colombia, and Universidad EAFIT's Centro de Análisis Político, among others.

However, the political culture of Colombian civil society has increased in recent years. In the context of globalization, POs tend to seek more prominence, not only to survive but to serve according to their social purpose to the common good. Practices of POs and the understanding shown by state authorities both favor philanthropy.

V. Economic Environment

Question Ten: To what extent is the economic context favorable for philanthropy?

Score: 3.5

Colombia's economic growth was above 3 percent in 2018 and 2019, the best in the region, which means a favorable economic environment. Furthermore, the country obtained a score of 39 out of 100 in 2020, ranking 92nd out of 180 countries evaluated by Transparency International's Corruption Perceptions Index. The latest laws prohibit prison under house arrest for officials convicted of corruption, obliges them to publish the income tax returns of senior officials, and tightens the conflict of interest requirements for legislators. Additionally, in the private sector, civil society organizations are investigating corruption, such as: The International Institute for Anti-Corruption Studies, Transparencia por Colombia Capítulo Transparencia Internacional, Observatorio Ciudadano de la Corrupción, and others.

VI. Socio-Cultural Environment

Question Eleven: To what extent are socio-cultural values and practices favorable for philanthropy?

Score: 4.0

There is a cultural tradition of helping through volunteer work stemming from Christian formation. There is a perception of honesty and transparency in volunteer work; however, there is mistrust when it comes to distributing donations. The population of children and young people is not instructed in school towards civic commitment. At the university level, international exchange and training is encouraged, and opportunities for completing one's professional internship in the social service sector is also possible.

VII. Future of Philanthropy

These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.

Current state of the philanthropic sector

Based on the philanthropic environment in Bogota, which is a reflection of the whole country, nonprofit organizations focus on the following social causes: children with diseases, natural calamities, violation of human rights, corruption, racial discrimination, defense of water sources, mining extraction, ecological tourism, traditional festivals, and defense of fauna and flora. Citizens are motivated to organize to defend and protect collective rights, and therefore, nonprofit sector is growing and improving.

Additionally, in the Colombian political and social context, there is more awareness of volunteering as something inherent to solidarity in the South American environment and the country's idiosyncrasy. This is due to the absence or presence of the government in covering primary needs, which have increased from the impoverishment of the rural population and poverty in big cities as a result of displacement caused by multiple incidents of violence. Civil society with international influence also seeks ways to institutionalize its presence. The best way to strengthen the sector is to have access to the mobility of national and international resources. Finally, many social challenges have proliferated themes. By the innovative richness of the philanthropic sector, new areas have developed, for example in the field of recycling and handicrafts among others.

Three major recent events affecting the philanthropic landscape between January 2018 and December 2020

- 1) Law No. 1943 of 2018, known as the Financing Law, made changes regarding the situations in which nonprofit entities lose special tax benefits. The Constitutional Court declared the Financing Law in Colombia unconstitutional. By means of judgment C-481 of 2019, the court found procedural flaws in the law's formation. However, the Law No. 2010 of 2019 also implemented similar changes. Likewise, a bill was filed in Congress in 2020 that establishes new requirements for the issuance of the certificate of common utility for tax exemption, which has led to discomfort within nonprofit organizations.
- 2) In the last regional election campaigns of 2018 and presidential campaigns of 2019, territorial and local governments used nonprofit organizations as an extension of their clientelist activity to pay electoral favors, which constitutes a barrier to the participation of civil society in the affairs of the common good.
- 3) The uncertainty of compliance with the peace agreements signed in 2016, which will be executed for 10 years, and the political violence against demobilized combatants affect the environment of nonprofit entities located in the territories where the guerrillas had influence, since the communities are unable to obtain the social benefits of the desired peace that would represent community development. On the other hand, the alternatives to the substitution of illicit crops accompanied by voluntary eradication are not supported by the economic income of the indigenous and peasant population.

Future development trends in the philanthropic landscape

The mobilization of national and international resources to advance projects of social benefit and collaborative efforts is the challenge civil society organizations must overcome in order to address the gaps caused by social dispersion and the absence of the government in the territories. Innovative and new technological platforms offered favorable opportunities to POs and possibilities to collaborate with the media, the business sector, and the government. Better leadership, more research, and collective and collaborative actions are required without selfishness and authoritarianism where consensus and respect for the diversity of thoughts flow.

Three key recommendations to improve the environment for philanthropy

- The activities of nonprofit organizations in the regions and territories should not depend on central and local government institutions. An equitable treatment among nonprofit organizations is needed to overcome the current concentration of organization as 80 percent

of them are in the hands of economic conglomerates, media, financial, and industry leaders, that only reaches the urban population. These nonprofit organizations have limited tools reach out to indigenous, Afro-Colombians and peasants lacking sanitation and basic needs such as drinking water, energy, health, education and others.

- The self-regulation and independence of nonprofit organizations, starting with their bylaws, governing bodies, regulation of their volunteer staff, and their internal democracy, is a requirement to mitigate conflict in their operation. This could be achieved with incentives from the government in conjunction with academia.
- To massify the enabling environment for nonprofit entities to be dignified actors advocating for collective interests, POs should negotiate agreements with political and economic powers that favor the legitimacy of the state to excluded citizens.

VIII. Philanthropic Response to COVID-19

These questions are used to provide a general picture of the philanthropic response to the COVID-19 pandemic in this country and recommendations for improving cross-sectoral collaboration.

Areas where the nonprofit sector and philanthropy are playing a role in responding to COVID-19

To help overcome the isolation of the most vulnerable groups who suffer from marginality, hidden poverty and/or informal labor, nonprofit organizations have developed community work through WhatsApp networks. These activities helped raise awareness on these situations that were caused by quarantines and confinement.

Innovation and new trends in the nonprofit sector and philanthropy related to COVID-19 responses

Colombia has an informal employment rate of 47.7 percent, a total of 5.7 million citizens, according to the National Administrative Department of Statistics (DANE). Accordingly, the greatest innovation has been the distribution of food baskets to the most vulnerable communities far from urban centers, since the greatest difficulty of this informal population is to get money to buy food for the day-to-day. These initiatives make a huge impact on informal sectors.

Impact of COVID-19 on the philanthropic environment

POs have turned to the use of online tools for virtual meetings, changing their practices due to the impediment to commute and work in the office. In addition, some POs dedicated to provisioning goods and services reinvented themselves in their activities, such as the aforementioned food basket distribution.

Anticipated impact of COVID-19 on the philanthropic environment in 2021

There will be more coverage for social services where government policies do not reach due to the high percentage of informality, such as: many people do not use any bank services due to high banking fees and transactional costs, so monetary aid does not reach them. In addition, the cooperative sector together with non-governmental organizations are obliged to design collaborative policies, otherwise they will be condemned to disappear.

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