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Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Eswatini

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Nonprofit Organization, Trust

Five main social issues addressed by these organizations: Health Care Delivery, Poverty Alleviation, Food Security, Orphaned and Vulnerable Children, Education

Average time established by law to register a philanthropic organization: 3 days

With foreign nonprofits, the process entails registering with the Ministry of Commerce, Industry and Trade, Registrar of Companies, after 21 days of having established a place of business in Eswatini.

Average cost for registering a philanthropic organization: USD 40.37

Government levels primarily regulating the incorporation of philanthropic organizations: Central/Federal 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	4.67	3.00	3.50	2.50	2.00	3.00	3.11

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

Individuals, both local and foreign, are generally at liberty to form and incorporate philanthropy (nonprofit) organizations as stipulated in the Companies Act No. 8 of 2009, and the company registration procedures issued by the Registrar of Companies. Meanwhile, trusts are registered as per the Deeds Registry Act of 1968. Foundations are currently registered as per the above-mentioned companies' legislation and have no separate applicable process.

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

Score: 5.0

Philanthropy organizations generally operate freely, without excessive government intervention. In the context of Eswatini, POs typically register as members, together with other nonprofit organizations under a voluntary umbrella body known as the Coordinating Assembly of Non-Governmental Organizations (CANGO). The primary function of the latter in relation to its members is to provide some degree of regulatory oversight. Organizations are not inhibited in their internal governance structures; they decide their board members, management, and organization policies. A limited number of POs that are inclined toward democracy do exist in the Kingdom of Eswatini, including the Open Society Initiative for Southern Africa (OSISA), which is formally registered in the country. OSISA seeks to deepen democracy, human rights and governance in the kingdom and provides grant assistance to select civil society organizations.

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

Score: 5.0

There are no reported instances where government shuts down POs. This indicates a generally favorable environment for POs to operate autonomously. Another consideration is that those entities deemed to warrant shutting down would probably have not qualified for formal/legal registration at the start.

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: 2.0

According to the Income Tax Order (King’s Order in Council) 1975, Exemptions from Normal Tax, there are certain organizations that are classified as exempt from tax. They include: (A) An amateur sporting association; an ecclesiastical, charitable, or educational institution of a public character; a trade union, employees’ association, an association of employers registered under the Industrial Relations Act, or a chamber of commerce and industry; (B) The Commissioner is satisfied that it is a genuine exempt organization; and (C) None of the income or assets confers or may confer, a private benefit to any person.

Tax Deductible Income: for the purposes of determining taxable income, there shall become deductible expenditure incurred during the year of assessment by any taxpayer

- by way of contribution to any association, institute, college or university, to be used in scientific research relating to the taxpayer’s own business if the Commissioner is satisfied that such contribution will be used in such research (Income Tax Order, 1975, Section 14, t); ii.).
- by way of contributions, grants or donations to any of his employees to assist such employee in further training in his particular professional field at the University College of Swaziland or any other approved university or institution for the purpose of securing a recognized qualification. (Income Tax Order, 1975, Section 14, t), u), v), w), x), y), z); iii.).

Any contribution, donation, grant, or gift made by any person during the year of assessment to any amateur sporting association, charity, or educational public institution within the definition of “exempt organization,” provided that the amount of deduction allowed under this paragraph for a year of assessment shall not exceed 5 percent of the person’s taxable income calculated before taking into account the deduction under this section (Income Tax Order, 1975, Section 14, u)).

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

Score: 4.0

Charitable organizations are exempt from company tax upon determination by the tax authority that none of the assets or income confer a private benefit to an individual. This is determined upon scrutiny of the PO’s annual financial statements and articles of association.

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: 4.0

The legal regulatory environment is relatively conducive to sending cross-border donations, subject to non-breach of the relevant legislation.

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

Score: 3.0

The point of entry for cross-border donations is normally an electronic funds transfer (EFT) from the donor to a local recipient (individual or legally registered organization). The financial institution receiving the funds will typically require proof of the source of funds by the recipient organization, including but not limited to detailed information as to the purpose of the funds, and more information about the grantor. If the donations are deemed to be intended for charitable purposes and availed toward legally approved POs, and it is established that the funds align with national developmental objectives, they are generally not thwarted. From a legal standpoint, the Financial Intelligence Unit is responsible for enforcing compliance with The Money Laundering and Financing of Terrorism (Prevention) Act of 2011 and 2016 as amended, and the Suppression of Terrorism Act of 2009. This entails working with the financial institutions to develop early warning systems on money laundering and financing of terrorism detection.

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: 2.0

The political environment is highly conducive for philanthropy, as it is considered to be complementing the national efforts to ensure sustainable economic development, poverty alleviation, education, improved healthcare, food security and job creation, to name a few thematic areas. Consequently there are multiple international development agencies and organizations such as the European Union, United States Agency for International Development (USAID), Japan International Cooperation Agency (JICA), and the United Nations Development Programme that are part of the government's multi-sectoral approach to implementing the National Development Strategy. In addition, the significant bilateral aid and official development assistance from the Republic of China on Taiwan is a further indication of the conduciveness of the political environment toward philanthropy. For instance, the Ministry of Economic Planning and Development has established an Aid Coordination Unit for this purpose.

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

Score: 3.0

Philanthropy is encouraged toward charitable and developmental initiatives. As alluded to in the preceding section, the establishment of the Aid Coordination Unit under the Ministry of Economic Planning Development is an example of the government's promotion of a coordinated effort to channel donor aid to developmental priorities. The government has also established an office for the Global Fund to fight AIDS, Tuberculosis and Malaria, which is specially created for the receipt of bilateral aid/official development assistance. In addition, there is a plethora of international organizations that have a presence in the country due to funding availed by USAID, President's Emergency Plan for AIDS Relief in Africa, the United Nations Development Agency, the Clinton Health Access Initiative, the Elizabeth Glaser Pediatric AIDS Foundation (EGPAF) and the European Union. Those and many other international organizations work in a collaborative manner with various state agencies, departments and diverse stakeholder groups in pursuit of common developmental objectives and priorities of the country.

V. Economic Environment

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

Score: 2.0

The economic context is favorable for philanthropy, particularly when viewed through the lens of the more than 69 percent of the country's population living below the international poverty line. According to the African Development Bank, Eswatini's economy contracted by an estimated 3.2 percent in 2020 after growing by 2.2 percent in 2019. The fiscal deficit worsened to 8.6 percent of GDP in 2020 from 5.3 percent in 2019, prompting the government to approach international financial institutions for budget support. Investment weakened and manufacturing declined, while the disruptive effects of the COVID-19 pandemic upended supplies. The above-mentioned statistics demonstrate that the country requires philanthropic support. However, the country's Human Development Index value of 0.611 for 2019, which placed the country in the medium development category and ranked it at 138 out of 189 countries (United Nations Development Programme, 2020), has long been criticized as masking income inequality in the country. In stark contrast to the Kingdom of Eswatini's classification as a middle income country, it has high levels of poverty (Poverty and Equity Brief, 2020). Concerns about the unequal distribution of wealth provides a compelling case for philanthropy to be directed toward disadvantaged and marginalized groups.

All the socio-economic factors highlighted above strengthen the case for the role of philanthropy in complementing efforts of the public and private sector to facilitate sustainable economic development of Eswatini.

VI. Socio-Cultural Environment

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

Score: 3.0

Socio-cultural values and practices can be deemed to be generally favorable to philanthropy. The African spirit of humanness expressed in the vernacular as ‘Ubuntu’ is deeply interwoven in the fabric of the Eswatini society. Ubuntu can be understood to mean “I am because we are” (Wikipedia). Accordingly, with a fairly small population of 1.3 million people, Eswatini is a close-knit society where family and communal ties permeate all facets of life. There are only two official languages: SiSwati and English, and negligible racial diversity, which creates a strong cohesion and interdependency among the people. The national cultural events such as Incwala, Umhlanga, and Buganu provide an avenue for people from all walks of life to gather together to commemorate centuries-old and revered traditional customs. An important conclusion can be drawn from the homogeneity of the people deriving from strong social cohesion, unity of purpose, and a general sense of oneness and belonging makes philanthropy conducive in the Kingdom of Eswatini.

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

Informal philanthropy is part of the culture, given that the society is characterized by close-knit relationships. Institutionalized philanthropy is mainly driven by international donor aid that comes with stringent governance requirements as well as capacity building and institutional strengthening funding.

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

- 1) The COVID-19 pandemic
- 2) The global economic decline and disruption
- 3) Civil unrest

Future development trends in the philanthropic landscape

Future trends of philanthropy organizations include the transformation of their business architecture into commercially run, financially sustainable entities that compete on par with profit-driven organizations. As competition for scarce financial resources becomes greater, the line is blurred between for-profit and nonprofit organizations. Meanwhile, the proliferation of information and equal access to it levels the playing field for business model innovation, and strategic repositioning to facilitate access to funding in novel ways such as venture philanthropy and crowdfunding.

Three key recommendations to improve the environment for philanthropy

- Innovation: Due to the disruptive effects to the charitable funding landscape of the global economic meltdown and COVID-19 pandemic, there is a strong imperative for POs (funding recipients) to pivot their business models toward becoming commercially sustainable, scalable, and impactful, as opposed to maintaining undue reliance on less viable traditional resource mobilization methods and unsustainable funding sources. Grant-making organizations could also direct more resources toward institutional capacity building and creating stronger indigenous organizations so the latter are more future-fit, resilient, competitive, and business driven in their approach.
- Capacity
- Sustainability

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

- Mitigating the impact on the healthcare infrastructure
- Accelerated distribution and rollout of the vaccine
- Receipt of international aid by the government via the Resource Mobilization Committee established by the Head of State, King Mswati III

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

The USAID, PEPFAR-funded Luke Commission is an example of a faith-based organization that has played a pivotal role toward increasing access to COVID-19 vaccines with over 50,000 patients screened since March 2020. The organization provides outpatient care, inpatient care, critical ICU care, specialized surgical care, and emergency care.

The University of Eswatini, Faculty of Science and Engineering has also developed a software application for contact tracing and incident reporting, providing real-time and or daily updates on the pandemic infection, recovery, and mortality rates.

Impact of COVID-19 on the philanthropic environment

The COVID-19 pandemic has increased the imperative for philanthropy organizations to up the ante in terms of the configuration of their business processes. There is added impetus for these organizations to become future-fit and innovative in order to compete effectively in an uncertain and volatile economic environment.

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

The allocation of scarce resources toward alleviating the detrimental effects of the COVID-19 pandemic translates to myriad competing developmental challenges being placed at a funding

disadvantage. More resources will be directed toward strengthening the vaccine rollout program, testing, and medical care.

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