



**IUPUI**

INDIANA UNIVERSITY  
Lilly Family School of Philanthropy

## The 2022 Global Philanthropy Environment Index Bolivia

**Expert:** Antonio Peres Velasco

**Institutional Affiliation:** Independent Consultant

Translated by Victoria Pérez Meraz

Edited by the Indiana University Lilly Family School of Philanthropy

### QUICK FACTS

**Legal forms of philanthropic organizations included in the law:** Association, Foundation

**Five main social issues addressed by these organizations:** Basic Needs, Environment, Health and Medical Research, Human Rights, Youth and Family

**Average time established by law to register a philanthropic organization:** More than 90 days

**Average cost for registering a philanthropic organization:** USD 862

Average cost for registering a foundation is USD 862.

**Government levels primarily regulating the incorporation of philanthropic organizations:** Central/Federal Government, State Government

The organization and constitution of philanthropic organizations (POs) is governed by the Political Constitution of the Plurinational State of Bolivia (*Constitución Política del Estado Plurinacional de Bolivia*), the Civil Code (BANZER), Law No. 351, and the Supreme Decree No. 1597—all of which are federal laws. According to these regulations: a) In the case of POs performing activities in a single department, the government of each state takes jurisdiction in the incorporation; and b) in the case of POs that perform activities in more than one department, the Vice Ministry of Autonomies takes jurisdiction.

## THE 2022 GLOBAL PHILANTHROPY ENVIRONMENT INDEX

### Philanthropic Environment Scores:

Year	Ease of Operating a PO	Tax Incentives	Cross-Border Philanthropic Flows	Political Environment	Economic Environment	Socio-Cultural Environment	Overall Score
<b>2022 GPEI</b>	3.33	3.00	3.50	2.75	2.80	3.00	3.06
<b>2018 GPEI</b>	3.17	3.00	3.50	2.75	N.A.	3.00	3.08

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?

<b>Score: 3.5</b>
-------------------

The Political Constitution of the State of Bolivia (CPE) establishes and protects the right to freedom of assembly and association, publicly and privately, as long as it is for lawful purposes. Law No. 351 establishes the obligation, to these associations mentioned above, to process their legal status. To apply for legal status, POs must first reserve and verify their name with the Vice Ministry of Autonomies under the Ministry of the Presidency. In turn, once the non-duplicity of the name has been verified, the Vice Ministry of Autonomies issues a name registration certificate. At the time of the request, to be granted legal personality, the following must be attached to the name reservation certificate: power of attorney, deed of constitution, foundation act, act of election and possession of a board of directors, organic statute, internal regulations, membership list, receipt of fee payment, and solvency information certificates. Considering the requirements mentioned above, it can be concluded that POs should not be affected by any legal impediment or onerous administrative requirement to obtain legal personality.

There are no explicit legal prohibitions in current regulations regarding who can be a founder or a member of a PO, except for a minority limitation. Obtaining legal personality and the registration of a PO are subject to the payment of current service fees. In the case of the government of La Paz, the official cost of the process is approximately USD 300. In the case of foundations, a document of donation for a minimum amount of approximately USD 2,873 is also required. Law No. 351 and Supreme Decree No. 4353 establish specific terms in which the authority must review and decide to grant legal personality and, in turn, specify the grounds for observation or rejection of the request.

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

<b>Score: 3.5</b>
-------------------

There are no direct restrictions related to criteria of national security or morality. However, Supreme Decree No. 4353, which regulates Law No. 351, establishes that the bylaws of POs must contain at least: name, nature and address, object and purposes specifying the actions and operations, rights and obligations of the members, organization and attributions, patrimony (estate), economic regime, internal and/or external financing sources, administration of resources, a periodic record of its financing sources before the competent authority when appropriate, internal regime and disciplinary regime, expressly establishing the prohibition of any form of transfer and/or commercialization of legal personality, and procedures for modifying statutes, extinction, dissolution and liquidation of the entity.

Non-governmental organizations and foundations must additionally specify the following in their statutes: the scope of their activities considering the guidelines established in the national development plan and the details of the allocation of property registered in a public document and before a notary public. According to regulations, POs are free to interact and cooperate with each other, both inside and outside the country, in agreements, platforms, and institutional work networks. There are no legal restrictions on collaboration or in the organization of conferences, trips, use of the Internet, and secure access to other information technologies that entail violations of human rights. There are also no concrete administrative restrictions and policies.

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

**Score: 3.0**

Regulations allow the highest corporate governance authority of a PO to voluntarily establish its dissolution. This power is recognized in practice in all institutional statutes. However, there are known cases in which voluntary dissolution would have been administratively denied under alleged protection of Law No. 223 for persons with disabilities. Law No. 351 opens a wide margin of discretion (freedom) by enabling the revocation of legal personality for reasons established by its own regulations. Legally, a regulation cannot establish grounds for revocation other than those established by the main law, because it cannot modify the content or the substantial scope of the latter.

Supreme Decree No. 4353 establishes that the competent authority to allow the revocation of legal personality is the same authority that issued the administrative act. In most cases, the Ministry of the Presidency through the Vice Ministry of Autonomies is the authority. Revocation will only proceed when the causes established in the regulations apply and are in accordance with the procedure established in Law No. 2341 (the Administrative Procedures Law).

## 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: 3.0**

Law No. 843 on tax reform establishes that business donations to recognized nonprofit organizations are deductible up to 10 percent of the profit subject to the tax corresponding to the management in which said donation is made effective. The business sector has a weak philanthropic vocation, probably due to 1) ignorance of the laws; 2) a lack of trust in the work POs do; 3) the prevailing legal uncertainty regarding investments; and 4) a degree of politicization of the work undertaken by POs, associations, and foundations. In recent years, this situation has changed with the creation of business foundations that allow tax-deductible donations to be included as part of corporate social responsibility (CSR) projects.

However, in Bolivia, there are few companies large enough to have profits that can finance philanthropic projects. According to data from the Commerce Registry System, as of January 2020, the business base grew 3.7 percent as compared to the previous year, with 98.6 percent of the total number of companies in Bolivia being small and medium-sized companies. Large companies represent only 1.4 percent of all businesses. Except for the aforementioned 10 percent of the taxable benefit limit, regulations do not establish other ceiling amounts for tax deductions for donations made. The process to obtain tax benefit deductions are, in essence, transparent and predictable. Tax regulations are implemented efficiently, and the government enforces tax payment obligations. However, the general perception is that control over POs on this matter is greater than ever.

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

**Score: 3.0**

Law No. 843 establishes that profits obtained by civil associations, foundations, or legally authorized nonprofit institutions that have signed agreements are exempt from business income tax (IUE). The exemption applies if: 1) by express provision of the statutes, all income and assets are exclusively intended to further institutional purposes; 2) under no circumstance is the income distributed directly or indirectly among PO associates; and 3) in the event of liquidation, the assets are distributed among entities that share the same purpose or are donated to public institutions.

Tax exemption is only applicable to POs that do not carry out financial or other commercial intermediation activities and only applies when there is a corresponding administrative resolution of support. However, there is evidence of a growing number of cases of rejections of tax exemptions based on interpretations and discretionary decisions of tax authorities that illegally restrict access to tax exemptions. The procedure to obtain property tax exemptions is governed by autonomous local municipal governments. The effective procedure to obtain property tax exemptions is complicated and often subjected to additional, non-transparent, and unpredictable requirements and formalities. The range of POs receiving support from local private donors appears to be quite small. The local culture of philanthropy and private or personal support to social or public benefit projects is weak.

### 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**

In relation to the existence of costs or taxes applicable to external philanthropic donations (in money or in kind), they do not exist in the sense that they are levied or applied directly to external donors. In this case, the same tax (domestic) and customs (tariff) treatment is given as detailed in the answer to the previous question. It should be noted that according to *the Viceministerio de Inversión Pública y Financiamiento Externo* (VIPFE) data, for 2016, foreign investment has comprised 22 percent of total investment, of which only 1.0 percent are donations, while the rest are credits.

In accordance with the foregoing, there is no available information on the existence of requirements for prior approval and of the submission of additional information, or subsequent government control strictly in this area. Also, there are no known special restrictions related to the sending of external philanthropic donations, mandatory use of government channels, or types of activities that can benefit from donations or countries of origin of the latter. Supreme Decree No. 29308 establishes the obligation to register donations, prohibits donations that imply ideological and political conditions, and obliges beneficiaries to report on donations received from multilateral financial organizations, cooperation agencies, and foreign governments.

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

<b>Score: 3.0</b>
-------------------

Law No. 843 exempts associations, foundations, or legally authorized nonprofit institutions from paying the tax levied on transferred funds and assets (ITGB). This law, which legally covers donations received from abroad, is subject to compliance with the conditions and requirements established for this purpose. Supreme Decree No. 22225 on Tributary Exemptions provides that donations are only exempt from the consolidated customs tax (GAC), provided that they are distributed or delivered to end users or consumers free of charge or used directly by the beneficiary institutions. These beneficiary institutions can only be international non-governmental organizations (NGOs) that have signed framework agreements with the Bolivian government.

Supreme Decree No. 29308 establishes the obligation to register donations received from multilateral financial organizations, cooperation agencies, governments, and NGOs. This legal provision also prohibits donations that involve ideological and political conditioning. This law also establishes that direct and unofficial donations must be reported to the Vice Ministry of Public Investment and Foreign Financing (VIPFE). Supporting documentation is required at the time of registration. Disbursements made, including those for closure of projects, must be reported quarterly to VIPFE.

Through a ministerial resolution, the Ministry of Development Planning approved the regulation of Supreme Decree No. 29308, which establishes terms of up to 30 days for the registration of donations. According to current regulations, there is no legal obligation to obtain approval for receiving donations; there is however a legal obligation to report on them. In this context, there is no information on restrictions that prevent receiving external donations, except for donations that imply ideological and political conditioning.

#### 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: 3.0**

In recent years, the conflict between the government and some POs has been intense. For example, the government has publicly threatened to shut down nonprofits for assuming critical positions towards government policies and actions. Speaking of creative tensions was not allowed. An attitude of self-censorship, maintaining a low profile, and accommodation to the new reality in order to avoid problems with government authorities has prevailed.

The political-economic system's perception of the role of POs has changed in recent years. Currently, social movements (corporate interest organizations) describe themselves as the main agents of social change. Those POs which do not meet the expectations of these organizations can be branded as opponents and contrary to Bolivia's "change process" and therefore have operational difficulties. The government does not promote the participation of all NGOs in the design and implementation of public policies or the study and drafting of bills. This participation seems to be restricted to POs close to government interests, such as national organizations, departmental or local authorities, ruling parties, or social movements. On the other hand, there are no formal legal limitations for POs to participate in political, electoral, or decision-making processes. In reality, the situation is often different. Since the current administration was elected, there has been an increasingly restrictive environment to the right of free association and fluent operation of POs. In the last decade, periods of political stability and crisis have alternated, as a result of political events and confrontations between antagonistic social organizations or between these groups and the government. Due to legal and political constraints, the financial crisis, and other factors, the development or increase of PO activities has been impossible. In fact, many POs have had to shut down due to a lack of financial resources.

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

**Score: 2.5**

In Bolivia there have never been policies to promote a philanthropic culture. However, in the last decades of the 20th century, POs were able to carry out their activities in an environment free of political and administrative restrictions and in relative coordination with the government. The new political, social, and economic reality has given way to a different situation, in which POs' margins of action have been reduced due to legal, administrative, and political restrictions. Therefore, one cannot say that the current government promotes and encourages a philanthropic culture.

It is currently impossible to talk of an equal and impartial access to financial resources and job opportunities. In fact, there is a clear differentiation between POs aligned with the government, POs questioned for their critical political position, and POs that seek to survive with a low profile and without complications. NGOs aligned with the government are more likely to access donors, information, services, training, networking, and funding sources. Those in conflict with the government or maintaining a low profile are limited in access to resources and strive to maintain their traditional foreign sources of funding.

## V. Economic Environment

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

Score: 2.8

In Bolivia there have never been policies to promote a philanthropic culture. However, in the last decades of the 20th century, POs were able to carry out their activities in an environment free of political and administrative restrictions and in relative coordination with the government. The new political, social, and economic reality has given way to a different situation, in which the POs' margins of action have been reduced due to legal, administrative, and political restrictions. Therefore, one cannot say that the current government promotes and encourages a philanthropic culture.

## VI. Socio-Cultural Environment

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

Score: 3.0

In the last decades of the 20th century, many POs were linked to the Catholic Church, and focused on human rights, education, and economic, social, and cultural inclusion. This work was the foundation of the current philanthropic activity. Over time, the philanthropic movement gradually lost its original identity and gave way to more pragmatic approaches detached from ethical and ideological commitments. In the last decade, the philanthropic tradition has weakened mainly due to the new government vision on the role of POs and the need to privilege the political function of social movements.

There is no uniform perception of philanthropic activity. Certain sectors view POs and their activities with sympathy. Other sectors are completely unaware of the importance and the scope of these organizations and their activities. Finally, there are groups that distrust the work of POs. In Bolivia, there is no culture of philanthropy, although there is a law that recognizes voluntary action (Law No. 3314 on Volunteering in Bolivia). There are no known limitations to the participation of women in activities carried out by POs. There are also no known barriers that prevent the participation of people based on ethnicity, sexual orientation, culture, age, nationality, or religion. There are conditions that are established by donors to comply with certain criteria, gender equality mainly. Illiteracy and disadvantaged rural segments located far from urban centers hinder the growth of the sector. In fact, these population segments have no real participation in the solution of their problems and their interests have been superseded by political and corporate intermediaries. This population is characterized by its limited or null access to fundamental rights, such as identity, education, and health, among others.

## 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

In the case of Bolivia, according to the study carried out by Fundación Construir, 97 percent of POs are registered and have a recognized legal personality, which means they are correctly and formally established, so informal philanthropy is not really relevant. January 2020, 98.6 percent of the corporate business base is composed of small and medium-sized companies, which shows a lack of private groups with the possibility to support the creation, operation, and maintenance of nonprofits.

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

1. **The Political Crisis.** Following the 2005 elections, an indigenist left-wing government was elected and the type of cooperation and aid received from institutions changed and has been directly conditioned by the affinities the donors have with the government. The government installed policies that changed the distribution of direct foreign aid. Among the main policies are an increased tax burden on institutions and the centralization of government. Although nonprofit institutions are independent, this centralization has directed aid only to certain areas of the country and the bureaucracy and enlargement of the government have complicated the development of private institutions. The 2019 change of government administration caused donors to question investing funds in organizations in a country that might be perceived as democratically unstable.
2. **Local approach.** Many donors from developed countries, who for years focused their aid on channeling funds abroad, changed their way of working due to the world trend of "think globally, act locally." As a result, a large percentage of foreign aid was lost. POs had to change their donor sources and seek financing from local entrepreneurs by appealing to local institutions' solidarity in each region.
3. **The COVID-19 pandemic.** During 2020, most activities were shut down and the population had to comply with both rigid and flexible quarantines, depending on contagion curves. This seriously complicated the work of philanthropic organizations. Also, due to the global economic crisis caused by the pandemic, fundraising became even more difficult and the possibilities of receiving aid reduced.

### Future development trends in the philanthropic landscape

One of the areas showing a growing trend in philanthropic work in Bolivia is comprehensive help for people with disabilities. Due to growing awareness, disabilities are ceasing to be a taboo subject in the country. There is a need to support this sector through therapies and instruments that can improve the quality of life of these populations. Another area in which philanthropic work is increasing in Bolivia is gender equality, such as through publicity campaigns, school workshops, and taking steps towards the approval of a legal framework that contemplates a culture of respect, tolerance, and non-discrimination for the sexual and reproductive rights of the national population.

Three key recommendations to improve the environment for philanthropy

- Political conditions: The work of POs is subject to regulations and conditions established by the government in relation to receiving aid. This is why it is imperative to create proper conditions that promote receiving international aid to the country, therefore preventing donors from diverting aid to countries with more welcoming conditions.
- Generating collective awareness about the imperative need for help: due to extreme wealth and poverty disparities in typical developing countries, some local and national institutions and companies do not have channeling aid to needy sectors among their objectives. Although Bolivia has a corporate social responsibility law, oftentimes this is just a formality and the real needs of the population are not met, or patchwork solutions are created to comply with the legal obligations of such companies. This dynamic needs to be improved if a real and lasting impact is to be achieved.
- Education: until a few years ago, schools in Bolivia did not contemplate community assistance within the school curriculum. In recent years, the development of social projects aimed at supporting the community has been promoted. However, such projects are also a formality and have not really achieved tangible results. Schools should develop community outreach activities as part of the curriculum in order to change the mindset of future generations by creating philanthropic awareness at an early age.

### 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

Due to the urgency to meet the needs generated by the COVID-19 pandemic, each philanthropic institution has responded to it by reinforcing its areas of expertise, but with a slightly more welfare-oriented approach. In general, POs have sought to channel aid to meet the immediate need for medicines, low-cost medical assistance, and food for low-income families affected by the pandemic. Nonprofit organizations focused on seeking foreign help and working with local volunteers to reach the most remote areas of the country to provide mainly medical assistance, but they also included other types of cooperation such as psychological support, training on infection control and prevention, food donations, and biosafety equipment to the most impoverished sectors of the country.

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

Technology in general has played a very important role during the pandemic by connecting people and showing real conditions in each country. The nonprofit sector is no stranger to Bolivia's reality and has therefore tried to improve its information and communication technologies in order to raise funds and show their results through social media. Advertising on virtual platforms such as Facebook and Instagram is much more efficient when trying to raise awareness on the specific needs of impoverished groups and the work carried out by assistance institutions during times of pandemic.

### Impact of COVID-19 on the philanthropic environment

The COVID-19 pandemic has had both a negative and a positive impact on Bolivia. On one hand, the global economic crisis has made it difficult for POs to raise funds. However, on the other hand, the needs of the most affected sectors of the country have made society more aware of the need to support them and to work in coordination with POs in order to channel the aid.

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

The economic crisis in 2021 is going to deteriorate in Bolivia for two main reasons. The first one is the inevitable consequences of the 2020 quarantine and the new waves of infections, amounting to more than 2000 new infections every day. Given the situation, the work of POs will become even more difficult than in 2021, since in 2020, resources and funds raised in previous years were available. And the second reason is that the exacerbated economic crisis and the depletion of funds will make the work of aid organizations at a national level much more difficult.

## References

Johns Hopkins University, Center for Systems Science and Engineering (CSSE). (2021). *COVID-19 Data Repository by the Center for Systems Science and Engineering (CSSE)*. [Data Set]. Available at: <https://github.com/CSSEGISandData/COVID-19>