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Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Venezuela

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QUICK FACTS

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

Five main social issues addressed by these organizations: Arts and Culture, Early Childhood Education, Food, Human Rights, Health and Medical Research

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

Average cost for registering a philanthropic organization: USD 50

1) Philanthropic organizations (POs) with political objectives (such as the promotion of democracy) are practically impossible to register; 2) Registrars are highly discretionary and government controlled; 3) It may take more than the legal time to register a PO (several months); 4) Most of the times, registration employees may ask for non-legal fees which are very much higher than the average legal cost; 5) There are restrictions for foreigners serving on a PO's board of directors, especially those with political purposes; and 6) Even if all the necessary steps for registering are met and the legal and non-legal fees are paid, given the high levels of discretion and secrecy that surround the internal functioning of the registering authorities, registering authorities may refuse to process a PO's registry with no explanation given.

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	1.00	3.00	1.20	1.15	1.00	4.00	1.89
2018 GPEI	1.67	3.75	2.40	1.00	N.A.	4.00	2.56

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: 1.0

The Venezuela Constitution recognizes the right of freedom of assembly, political participation, freedom of expression, and a number of other human rights protecting POs and their members. Likewise, the law establishes the means to acquire legal personality, and case law has defined the nature of civil associations and foundations. Nevertheless, there is a great contradiction between what regulations say and the reality in Venezuela. Regarding registration, reality is quite different from the legal texts:

1. Registration authorities are extremely corrupt. Venezuelan local media have in the past uncovered through reports and testimonies the scandals that arise from the levels of corruption from these authorities. Even though, according to law, the registration process should not be burdensome and does not require heavy fees or resources, in practice it is frequently onerous;
2. Each registrar has a great deal of discretion in decision making. As a result, the by-laws and other documents required for registration often have to be submitted several times in order to adapt them to the arbitrary requirements of registration officers and receive final approval by the registration officer;
3. The registration authorities frequently deviate from the formal procedures and oblige POs to undergo various unnecessary formalities, which waste time and resources; and
4. POs advocating for human rights or pursuing political objectives are nearly impossible to register, as there are unofficial governmental guidelines that prevent registration of POs in these areas.

Given these facts, it is clear that individuals are restricted in their ability to form organizations. The government heavily monitors and limits the types and purposes of organizations. The registration process is extremely burdensome, requiring excessive resources and illegal fees. Furthermore, government entities apply regulations inconsistently based on political motivations.

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

Score: 1.0

According to civil law, PO founders are given sufficient freedom in setting the structure and governance of their organizations. In practice, however, the law holds little sway, and registrars can—and usually do—interfere with the structure and governance of POs. While POs are legally entitled to pursue any activity that is not unlawful or against public order, serious restrictions exist for POs with political purposes, including human rights organizations.

Communication and the use of social networks are limited, not only because of the existing technological limitations in regard to bandwidth in the country, but also because the government has threatened and detained activists who use social networks to advance the purposes of their organizations. The government has also hacked activists' accounts and regularly spy on them. It must be highlighted that in the past year, the Government has publicly voiced attempts to regulate POs in a very strict manner with the aim of both not granting them legal protection and to tightly control the creation and operation of POs in the country.

Along this line, on October 19, 2020, the government published a Joint Resolution Nos. 082 and 320 Containing the Special Rules for the Recognition and Operation of Non-Governmental Associative Organizations not Domiciled in Venezuela. The purpose of this Joint Resolution is to regulate and monitor the activities that POs not domiciled in Venezuela carry out in the country. To this purpose, the Joint Resolution created the Registro Especial Automatizado de ONG No Domiciliadas IREGONG), which functions as an online database of non-governmental organizations not domiciled in Venezuela. This database aims to fight organized crime and financing of terrorism, among others. The intention behind this new regulation is clear: to control and criminalize POs activities.

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

Score: 1.0

According to civil law, an organization's governing body is able to voluntarily terminate its activities, in accordance with the rules established in its bylaws. Involuntary termination by the government may occur only because of a criminal offense. Nevertheless, in practice, there is high discretion of governmental officials and courts to determine what constitutes a criminal offense. Even though there are no high-profile cases of involuntary terminations, there are constant threats to POs and their members, especially those organizations defending human rights and civil liberties. Involuntary termination would be subject to judicial supervision. Currently, the judiciary is not independent of the executive branch, and several studies have proven that courts always align with the government's interests in cases where political interests are at stake. As an additional note on what actually happens on the ground, government officials and pro-government groups in Venezuela are very active in promoting the shutdown and termination of POs under the narrative that they may be promoting foreign interests or engaging in irregular activities and terrorism.

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

Charitable and social assistance organizations are eligible for exemption from income tax if they meet the legal requirements. In order to receive exemption from income tax, organizations must register with the National Integrated Tax and Customs Administration (SENIAT) and demonstrate

that they have met all requirements. Entities subject to these exemption benefits can be subjected to fiscal inspections and supervision procedures led by SENIAT.

Regarding the deductibility of charitable donations, corporate and individual taxpayers can deduct donations to civil associations and foundations that pursue nonprofit purposes. The amount of the deduction is limited to: 10 percent when the net income of the donor does not exceed 10,000 tributary units; 8 percent for the portion of net income that exceeds 10,000 tributary units; and 1 percent if the contributor carries out economic activities relating to hydrocarbons or the exportation of minerals. Deductions apply only to recipients domiciled in Venezuela, and do not benefit donors who suffered losses in the immediately preceding fiscal year.

The executive branch is authorized to exempt POs from paying taxes on inheritance and donations if they dedicate themselves to the following activities: religious, artistic, scientific, conservation, defense and improvement of the environment, technological, cultural, sports, and professional associations or trade unions, provided they do not pursue profit. The executive branch may grant tax exemptions with a maximum time limit of one year instead of five years as it used to be. Under the new code, exemptions granted to religious and worship activities may be for an indefinite period of time; the previous code gave this possibility to all nonprofit institutions. Regarding value added (VAT) and turnover taxes, there is no specific exemption from the VAT for nonprofit organizations. However, certain goods and services are exempt, such as those related to education and healthcare

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

Score: 3.0

In general, any PO can receive support from private donors. In practice, however, local private donors tend to avoid making donations to POs with political or human rights purposes for fear of government retaliation against them. All POs are eligible for tax exemptions if they fall under the categories of charitable or social assistance organizations established in the Income Tax Law (Ley de Impuesto Sobre la Renta or LISR). POs wishing to receive incentives must be registered before SENIAT. Most Venezuelan POs are able to receive tax exemptions of various forms. Charitable and social assistance organizations are eligible for exemption from income tax if they meet the following requirements:

1. Their income was obtained with the objective of furthering their charitable purposes;
2. They do not distribute earnings, profits of any kind, or any part of their assets to their founders, associates, or members; and
3. They do not make payments in the form of distribution of profits or assets.

Contributions must be made in compliance with the purposes of collective utility and social responsibility of the taxpayer and in favor of state entities. The donations must pursue charitable, welfare, religious, cultural, educational, artistic, scientific, conservation, defense and improvement of the environment, technological, sports, or improvement objectives of urban or rural workers to institutions that do not pursue profit purposes and use donations to pursue their stated purposes. These deductions proceed only in cases where the beneficiary is domiciled in the country. The executive branch is further authorized to exempt individual POs from paying tax on inheritance and donations if they are dedicated to the above-mentioned activities. Organizations must report

donations to SENIATe within 30 days of receipt. If a donation is not exempt, the donor and recipient are jointly liable for tax payment.

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: 1.4

It is forbidden for foreign investors to donate to POs or provide other forms of support without procuring a permit from the Foreign Investment Agency. As of January 2021, the Foreign Investment Agency is still not operational. The Law on Taxation of Inheritance and Donations is applicable to all sorts of contributions. According to the law, the tax aliquot goes from 10 percent to 55 percent depending on the amount of the donation. Pursuant to the Convenio Cambiario No.1 (Exchange Agreement No.1), the Foreign Exchange Decree, and Regulation No 19-05-01, in principle, there are no longer foreign exchange market control restrictions in Venezuela. Thus, individuals and legal entities may freely offer and purchase foreign currency in Venezuela. Also, the Venezuelan Central Bank Regulation on deposits in foreign currency in Venezuelan financial institutions does not apply to accounts held in any bank and/or financial institution incorporated outside Venezuela, even if such bank has either a subsidiary or a branch in Venezuela by clients' resident and/or is located in Venezuela, whether those clients are individuals and/or legal entities.

It is important to take into consideration bilateral treaties in order to avoid double taxation, which Venezuela has enacted with several countries. In most cases, exemptions and exonerations remain unchanged and there are no specific procedures or approval processes in order to send donations to foreign entities. However, in practice over the past years and particularly with much intensity in 2020, the government, through various agencies and institutions have carried out intense attacks to this particular area of philanthropy in Venezuela, criminalizing non-governmental organizations (NGOs) that receive cross border donations. The cases of the NGOs Alimenta La Solidaridad and Azul Positivo are two examples.

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

Score: 1.0

There are several forms of control in relation to receiving cross-border donations. The Law for Protection of Political Sovereignty and National Self-Determination targets POs working to monitor government bodies or promote political rights. These organizations are prohibited from receiving cross-border donations. Noncompliance could lead to fines. Banking institutions are obliged to implement measures to strengthen the procedures, mechanisms, and technological systems that allow monitoring all business or financial operations carried out by nonprofit organizations, with "...the

purpose of identifying the natural or legal persons that receive or send funds from or to those organizations and thus detect unusual operations or suspicious activities of Money Laundering, Financing of Terrorism and the Proliferation of Weapons of Mass Destruction.”

On November 2020, the President of the National Constituent Assembly (ANC) announced that he would present a legislative reform seeking the restriction of foreign funding to NPOs. Specifically, the ANC president Diosdado Cabello threatened: "...the maximum possible sanctions will be imposed on those organizations that receive funding from the United States to conspire against the homeland..." As of the date of this report, this bill has not been approved. Sending cross-border donations to POs in Venezuela is becoming extremely difficult and dangerous for the POs that receive it, since some have been prosecuted. The case of the PO Alimenta La Solidaridad is a very troubling example, as they are accused of money laundering and illicit association.

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: 1.0

The current political environment is characterized by extreme political tensions between an openly undemocratic government and a democratic civil society. The government not only harasses and threatens civil society activists, but also civil society benefactors. Under these circumstances, philanthropic organizations may be at risk. The government perceives philanthropy as a menace and an adversary, rather than a sector with which they can develop relationships of cooperation. Donors may be threatened or coerced by the government through various means.

The government does not create opportunities to involve philanthropic organizations in policy development and implementation. On the contrary, it blocks and even censures POs’ initiatives in very sensitive sectors. In past years the list of POs publicly being attacked only grew larger. For example:

1. In 2020, El Centro para los Defensores y la Justicia (CDJ) reported that 33 individuals and organizations that defend human rights in Venezuela had suffered attacks;
2. The government recently blocked donations of medicines and food for people with serious health problems (such as cancer or undergoing dialysis) or people who are starving because the donations were channeled through Caritas, a PO linked to the Catholic Church.
3. Asociación Civil Convite (Convite AC), a PO that provides humanitarian aid for the elderly in Venezuela, was subject to a raid by officials of the Special Action Forces (FAES in Spanish) on Tuesday, December 15, 2020; and
4. Bringing legal assistance to POs is also a risk: on September 7, 2020, FAES officials arrested Natasha Saturno, a lawyer with the PO Acción Solidaria.

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

Score: 1.3

The government neither promotes nor supports a culture of philanthropic tradition—on the contrary, the actions recently taken against POs clearly show that the intention of the government is to reduce POs as much as possible. The government also does not allow or promote POs' equal access to resources and opportunities. Freedom to support any philanthropic cause or organization without government pressure is seriously restricted. The Law for Protection of Political Sovereignty and National Self-Determination, Article 7, limits political organizations from receiving financial support from foreign organizations. Even philanthropic activities in non-political areas, such as health and food, have been under threat.

The government does not support POs unless they politically control them. The government does not implement effective laws and programs to prevent corruption, especially if POs are under government control. On the contrary, it constantly pursues means to subdue POs by legal or other means, for example: In late November 2017, Venezuela passed the Constitutional Law Against Hatred, for Peaceful Coexistence and Tolerance. The law's aim is to have a legal way to prosecute persons and organizations which the government considers a threat, using the excuse of promoting peace and tolerance. The law also regulates political organizations, a term that includes human rights POs, which can be blamed for promoting fascism, hatred, and discrimination. Its members can be sentenced to up to 20 years of imprisonment. Laws such as the aforementioned have served only as a way to attack what the government considers political opposition, which includes POs and its members.

V. Economic Environment

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

Score: 1.0

The current economic situation has remarkably restricted philanthropic activity. Venezuela has suffered under economic contraction and hyperinflation for the last seven years. In 2020, inflation was over 3,700 percent. Between 2013 and 2020, gross domestic product (GDP) dropped 79.4 percent. According to the Heritage Foundation's Index of Economic Freedom, Venezuela's 2020 economic freedom score was 25.2 and was ranked as 179 out of 180 countries. Venezuela's score was the lowest in the Americas and the second lowest in the world. Private property has been under threat for more than 20 years, with arbitrary expropriations without adequate, fair, and prompt compensation. The private sector is constantly harassed, unjustly fined, and prosecuted under an unfair court system which is biased against the private sector.

According to the Encuesta Nacional de Condiciones de Vida (ENCOVI) Survey 2020, 94 percent of the Venezuelan population lives in poverty and 64 percent lives in extreme poverty. According to International Transparency's Corruption Perception Index 2020, Venezuela ranked 176 out 180 countries, making Venezuela one of the most corrupt countries in the world. Far from implementing effective laws and programs to prevent corruption, Venezuelan government passed the Anti-Blockade law (Ley Antibloqueo), which highlighted the lack of accountability and transparency that

leads to more corruption. Trade has become extremely difficult since there are many restrictions as a consequence of international sanctions put on several Venezuelan institutions and persons due to the fact that Venezuelan government have been linked to drug trafficking and terrorism. These restrictions have affected not only sanctioned people and institutions, but also most transactions that involve Venezuelan nationals. Thus, Venezuela has become an extremely unstable economy, with no economic growth and has been immersed in an economic crisis for almost a decade. This outlook makes Venezuela a country with very difficult conditions for the development of philanthropy.

VI. Socio-Cultural Environment

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

Score: 4.0

Venezuelan society and the private sector have a cultural tradition of philanthropy. Solidarity is a rooted social value, and altruism is highly regarded by entrepreneurs. The private sector is open to support philanthropy, even though the current economic situation has remarkably restricted philanthropic activity as well as the recurring hostility and persecution against POs and their donors. Venezuela shares with many countries in Latin America a common colonial and religious background that has shaped what philanthropy is today in this country. The Catholic Church used to take care of many existing charities and had the primary responsibility of providing education, health, and social welfare (Landim & Thompson, 1997).

Most people are aware of the importance of philanthropy for society, and there is a general understanding of what philanthropic organizations do. Nevertheless, philanthropy is not perceived as a sector, but rather as independent entities working in isolation. It is necessary to raise awareness of philanthropy as an organized sector to contribute to its development. In terms of credibility, POs are, in general, perceived as transparent and accountable, and they are highly trusted by society.

The structure of society and its cultural traditions do facilitate free development of philanthropic activities. Civil society generates spaces for the development of POs, independent of social status. Similarly, there are not openly perceivable social barriers based on ethnicity, sexual orientation, culture, age, nationality, or religion to participate in philanthropic activities. On the contrary, tolerance and inclusion in POs is rather high. There are some academics and POs studying and researching on the field of POs and freedom of association, even though it is not a widespread activity. Regardless of the difficulties that POs now face in Venezuela due to the government's criminalization, new projects of POs are being created and led by civil society.

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

The philanthropic sector is expansive in Venezuela. There are very relevant and well-recognized POs and donors that are highly regarded by civil society as a whole. Nevertheless, philanthropy is not an institutionalized sector and should be better organized. There is not a clear consciousness

among POs as belonging to a sector. Even though there are prominent donors and organizations that individually cooperate, there are not prominent private groups or organizations supporting the autonomy, capacity, sustainability, and impact of the sector as a whole. The sector has become professionalized even though there is still work to do in relation to the professionalization of the sector.

The development of the sector depends on the return to democracy in the country. Once a transition to democracy is implemented, opportunities for and development of the sector will be significant. However, as of today, the situation seems not to be turning for the better but for the worse. As stated in our previous answers, hostility shown by the government towards POs appears to be increasing at a very high pace. The cases during the last trimester of 2020 and early 2021 of persecuted POs hit an all-time high, with many POs (not only human rights but also social support POs) being forced to suspend their operations in Venezuela.

It is feasible that we may see new unfavorable regulations and laws regarding POs in the near future. As a final note, on January 14th, 2021, a national lower court in the State of Zulia ordered the imprisonment of several workers of the PO Azul Positivo, which helps provide food to vulnerable residents of Zulia State, as well as addressing the needs of patients with sexually transmitted diseases (STDs). The workers are being charged with “fraudulent handling of smart cards or similar instruments, association to commit crimes and money laundering,” all crimes under Venezuelan criminal law.

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

1. The criminalization of members of social development POs (such as Alimenta La Solidaridad, Azul Positivo, and Acción Solidaria), all of which are dedicated to alimentary and health assistance. Some of its members are either in exile or in prison;
2. The approval of laws affecting POs, such as The Constitutional Law Against Hatred, for Peaceful Coexistence and Tolerance or guidelines to the banks to control, limit and report POs’ funds; and
3. The economic crisis.

Future development trends in the philanthropic landscape

- There is a growing trend of giving through other means, such as providing support by donating time, knowledge, or specific material resources. Information is not currently available about new forms of philanthropy like blockchain, crowdfunding, bonds, or other financial tools;
- The Venezuelan diaspora has grown significantly during the last ten years. People who have left the country have been sensitive to the political and economic crisis and have been supporting local philanthropic organizations and individuals by donating food, medicines, and cash. The Venezuelan diaspora is becoming a relevant new actor in the philanthropic landscape. Even though it is mostly an unstructured phenomenon, diaspora giving is developing into a more systematic and organized activity. Hence, it can turn into a new important source of philanthropy in Venezuela; and
- If Venezuela returns to democracy, one probable outcome will be the development of a stronger and more active philanthropic sector to help rebuild and strengthen democracy in the country.

Three key recommendations to improve the environment for philanthropy

- Promote international awareness of Venezuela's lack of democracy and government attacks on POs, its donors, and members. If the undemocratic regime subsists, philanthropy will continue at serious risk and could even disappear;
- Promote an adequate legal environment that endorses transparency, tax incentives, and freedom of association; and
- Develop a campaign in order to: 1) give POs a sense of cohesion as a sector; 2) raise awareness among beneficiaries about the importance of POs; and 3) raise the awareness of potential donors about the benefits of philanthropy.

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

The main areas in which the nonprofit sector and philanthropy have been playing a role in responding to COVID-19 in Venezuela are health, food, and education. Venezuela has had a refugee crisis for several years that has not stopped during the COVID-19 pandemic. The nonprofit sector has been doing work on the Venezuelan borders with neighbor countries, especially Colombia, to assist refugees and their families.

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

The use of information technology has highly increased and improved communication amongst different POs. It may result in a greater sense of POs as members of a sector, may increase their influence in society, and may improve their relations with donors and beneficiaries

Impact of COVID-19 on the philanthropic environment

During the pandemic period, the government has increased its attacks on POs. Even though the government has always harassed and persecuted human rights organizations, during the pandemic, there has been a serious increase in the attacks on organizations that provide social support, such as health and food organizations. This is something that did not happen as frequently before this period. This trend may severely affect future philanthropic projects.

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

It is probable that donors will focus on organizations related to health assistance. If the economy does not recover from the COVID-19 pandemic, donations may be heavily reduced, especially from local donors. Much aid will be needed not only to support health activities related to the pandemic, but also to other areas that will be severely affected. Support to meet alimentary needs will be necessary. POs may also turn to education in order to support new technological needs that are highly necessary to develop education under the pandemic circumstances. The use of information technology will evolve and may have a positive impact on donor relations, beneficiaries, and between POs themselves.

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