Zimbabwe

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Trust, Other(s): Private Voluntary Organization

Five main social issues addressed by these organizations: Higher Education, Youth and Family, Food, Water and Sanitation, Human rights

Average time established by law to register a philanthropic organization: Varies by organization type

Other(s): Zimbabwe has three types of registration. The period for registration can range from a week to over two years depending on which type of registration the organization is pursuing.

Average cost for registering a philanthropic organization: US $0 - $5,000

Typically, a Trust is the easiest form of registration requiring a week to register and costing an average of US $2,000. A Private Voluntary Organization, which must receive approval from the Office of the President, can take over two years for approval and would require at least US $10,000 in the form of a non-refundable application fee. The third form of registration, Universitas, is free; only requiring that the organization have a constitution guided by common law. Most organizations that use this form of registration are associations and often face operational challenges from the state in Zimbabwe.

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

Though not specified in the law, local government authorities have been increasingly interfering with the registration and operations of community-based organizations.

Philanthropic Environment Scores:

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<th>Ease of Operating</th>
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<tr>
<td>2018</td>
<td>2.0</td>
<td>3.0</td>
<td>3.25</td>
<td>1.5</td>
<td>3.0</td>
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I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three 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 1: To what extent can individuals form and incorporate the organizations defined?

Score: 2.0

The Zimbabwe government makes it difficult to register philanthropic organizations. Because of this, a considerable number of philanthropic organizations in the governance and human rights sector operate without being official registered. However, any international organizations involved in sustainable development initiatives, such as sustainable livelihoods, would require registration before they can operate in Zimbabwe (Private Voluntary Organizations Act, Article 2 and 6). Unregistered organizations cannot operate, seek financial assistance or receive state grants, and any person that takes part in the management or control of an unregistered private voluntary organization will be fined or imprisoned (Articles 6, 11 and 23).

Registration as Private Voluntary Organizations (PVOs) requires the approval of the Private Voluntary Organizations Board that is comprised of the Minister of Public Service, Labour and Social Welfare and representatives of voluntary organizations selected by the Minister. Some organizations have spent over five years waiting for approval while others have failed to ever attain registration. After the difficulties in initial registration, once established, PVOs’ activities are strictly monitored by the central government. Often a number of organizations that encourage public discussion of the governance crisis are deregistered and expelled. Consequently, a number of organizations have opted to avoid dealing with the PVO Board regulations. These organizations, instead, are registered as private trusts under the Deeds Registrar through private lawyers.

The majority of philanthropic organizations in Zimbabwe operate as public trusts. However, there are still barriers to entry that include the costs of hiring an attorney. Furthermore, the Deeds Registrar still uses a manual system; there is a risk that a duplication of names may confuse two or more organizations.

A number of organizations also operate unregistered as Universitas under the Common Law (Zimbabwe Lawyers for Human Rights & Anor v. The President of the Republic of Zimbabwe & Anor), which provide legal existence to these organizations as long as each has a constitution and its activities are entirely for the benefit of its members (ICNL, 2017). Universitas are protected under the Common Law based on the argument that they exist to provide a “Common good”; however, this form of registration is problematic as the state is always pursuing avenues to shut down such organizations. At times, the state also makes operations of Universitas impossible; for instance, police may not give clearance for organizations of this nature to carry out activities.
Question 2: To what extent are POs free to operate without excessive government interference?

The operations or conduct of any activities by philanthropic organizations in Zimbabwe is regulated under the Public Order and Security Act (Chapter 11:17), which requires any activity convened in Zimbabwe to be reported to the Zimbabwe Republic Police. Their clearance must be given for an organization to undertake the proposed activity. This greatly curtails the freedom of philanthropic organizations to convene and conduct business in Zimbabwe. A number of philanthropists have been arrested, detained and convicted for undertaking activities without police approval. It is important to note that this law contravenes the Constitution of Zimbabwe but the police totally disregard the provisions in the Constitution. A number of court challenges have been presented, and despite the fact that courts have ruled in favor of philanthropists, court orders are seldom abided.

The government discourages local organizations from cooperating with international development partners and often accuses those that have working relations with foreigners as agents of an illegal regime change. This labeling by the government also creates a negative public image for philanthropic organizations in Zimbabwe. The government has been pursuing avenues of limiting advocacy initiatives using social media following the 2016 protests organized and coordinated on social media against the government. This movement was known as the #ThisFlag protests. This protest led to government prohibitions against Internet access and the creation of a new Ministry of Cybersecurity in 2017. The country has also recently witnessed (Nov 2017) the arrest of a US citizen undertaking philanthropic work with a local arts organization. The US worker was accused of subversion and undermining the authority of the president, illegally seeking to spur regime change. Despite these challenges, philanthropic organizations continue to use social media, though, with caution.

Question 3: To what extent is there government discretion in shutting down POs?

Most philanthropic organizations operate under their organizational bylaws that guide the dissolution of the organization, which is at the discretion of the Board of Trustees or Directors. This allows organizations to determine their own existence. However, in reality, there are cases in which the government poses a security threat to organizations, forcing them to terminate their operations.

The government can also use the Private Voluntary Act or related legal instruments to shut down organizations that they consider a threat to national security, when in reality they find these organizations to be a threat to current regime. The Unlawful Organizations Act 19/1998 authorizes the President to declare any organization to be unlawful “if it appears to the President that the activities of that organization or of any of the members of that organization are likely to endanger, disturb or interfere with defense, public safety or public order in Zimbabwe” (Article 3). Under such circumstances, the organization will be shut down and its members will be restricted from engaging in activities connected to the unlawful organization. According to the PVO Act, the Private Voluntary Organizations Board can cancel the certificate of registration of PVOs (Article 4). Cancellation occurs
when the organization fails to operate in accordance with its objectives; fails to comply with conditions of registration; ceases to function as a PVO; fails to submit any report; and if any remuneration or reward is excessive in relation to the total value of the contributions received (Article 6).

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

Score: 3.0

There are no tax incentives for individuals or corporations for donating to charitable or public benefit organizations. The law does not provide for exempt status to Private Voluntary Organizations, so donors do not receive tax exemption for donating to these organizations.

Corporations are allowed deductions when donating to certain funds. The Income Tax Code (Section 15) is very specific in the kind of allowable deductions, such as the National Scholarship Fund, National Bursary Fund and charitable trusts administered by the Minister responsible for social welfare; or the Minister responsible for health; contributions to research institutions; Public Private Partnership Fund; and the Destitute Homeless Persons Rehabilitation Fund.

Question 5: To what extent is the tax system favorable to POs in receiving charitable donations?

Score: 3.0

The government of Zimbabwe does not levy taxes on donations and grants received by PVOs. Tax return mechanisms are clearly established in the Income Tax Act (Chapter 23:06), although it requires considerable time and effort from philanthropic organizations to claim tax returns or deductions. Based on some donor requirements that forbid their funds to be used for tax payment, most organizations fail to fulfill their tax obligations. Subsequently, it is important to note that a number of philanthropic organizations have provided inaccurate information about the amount of funds received due to their inability to pay taxes to the revenue authority.

In terms of other taxes, such as value added tax and customs tax, philanthropic organizations are generally taxed in a similar way as any other commercial business entity if the organization is not registered. Goods that are donated to and imported by associations and organizations in Zimbabwe which are involved in charitable or welfare work may enter duty free and VAT free by the terms of Section 124 of the Customs and Excise (General) Regulations published in Statutory Instrument 154 of 2001 (Zimbabwe Revenue Authority). This rebate only applies to organizations registered with the Department of Social Services falling under the Ministry of Public Service, Labour and Social Welfare and under the Private Voluntary Organizations (PVO) Act Chapter 17:05 and in possession of a PVO number. Religious organizations are not automatically considered charitable or welfare organizations.
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 6: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 3.0

There are no specific regulations regarding sending cross-border donations. Nonetheless, in the case of cross-border money-transfer, Zimbabweans have faced numerous burdens recently. The cash crisis that started in 2016 has escalated in 2017 in the banking sector, which directly affects access to and use of funds. This follows a crippling liquidity crisis where the country is, basically operating without any physical money with the exception of a nominal currency that was adopted in November 2016 known as bond notes. Because of the liquidity crisis, organizations are finding it difficult to access funds for activities and it is practically impossible for organizations to make payments for products and services outside Zimbabwe, much less send cash abroad. The liquidity crisis has been caused by years of policy failure and violations of economic fundamentals making the economy collapse and the manufacturing sector suffer badly. The liquidity crisis has provoked low circulation of US Dollars which is the currency used in Zimbabwe since 2009, while the bond notes are untradeable outside Zimbabwe leading to inflation as people scramble to get hold of the limited foreign currency that can be used outside Zimbabwe. This situation has forced philanthropic organizations to use foreign bank accounts in stable neighboring countries, such as South Africa, Botswana and Zambia as a way of cushioning themselves against inflation and other challenges of the financial sector.

Question 7: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

Score: 3.5

Zimbabwe is a net recipient of cross-border donations and organizations can receive foreign aid or funds without any major restrictions or significant additional costs. However, philanthropic organizations face challenges in accessing these funds in Zimbabwe following the liquidity crisis explained above. Philanthropic organizations receive their funds almost exclusively from foreign missions and aid agencies, such as USAID, European Union, UNDP, UNICEF, and the UK Department for International Development (USAID, 2015). The funds are processed through normal banking procedures that conform to international standards although the country has been subject to regulations to prevent money laundering.

The Exchange Control Act (Chapter 22:05) regulates currency and exchange transactions, and the Reserve Bank of Zimbabwe is the Exchange Control Authority in terms of exportation of cash from Zimbabwe (Reserve Bank of Zimbabwe, 2017). Zimbabwe is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMPLG). ESAAMLG has identified serious crime
operations, such as parallel banking operation, and high level of corruption that encourage both domestic and cross-border money laundering in the country (ESAAMLG, 2007). The 2016 liquidity crisis might have amplified these crimes, as the Reserve Bank of Zimbabwe imposed cash withdrawal limits on local bank accounts. From November 2016 on, exporters started to receive an electronic transfer of funds from the Reserve Bank instead of cash payments (The Financial Gazette, 2016). Cross-border money transfers are highly regulated by the President and is monitored by the Reserve Bank of Zimbabwe. In addition, due to the 2016 liquidity crisis, money-transfer companies, including Western Union and Mukuru accept only US Dollars to be sent from Zimbabwe, which makes the possibility of cross-border donations extremely difficult. (Madamombe, 2017). Unfortunately, there have been abuses of the regulation for political purposes and organizations receiving foreign funds are often painted as involved in efforts to destabilize the country.

All registered philanthropic organizations are entitled to tax exemptions and waivers on import duties in Zimbabwe. However, in reality only organizations affiliated to international bodies such as the United Nations are capable of taking advantage of this import taxation. Small, local philanthropic organizations that are not registered as PVOs do not enjoy this privilege. Additionally, in order to receive tax deduction from import duties the organization must declare to the government the source of its funds. Many local philanthropic entities fear being labeled as western-funded agents seeking regime change.

IV. Political and Governance Environment

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

Question 8: To what extent is the political and governance environment favorable for philanthropy?

Zimbabwe is under an authoritarian government that has a long history of violating human rights and subduing democratic forces. Despite the existence of philanthropic organizations, the relationships between government and the civil society are lukewarm as political and economic reforms are stalled. There is no political will to transition to a more democratic society. Philanthropic organizations pushing for the adoption and implementation of measures to increase government accountability often meet with resistance to their initiatives. The state structure has been built to block the voice of civil society in governance issues. The government often uses dismissive tactics like accusing nongovernmental organizations to be agents of western funded agencies to change the regime. A number of leaders from these organizations have been arrested and detained. For instance, in 2016 hundreds of people (including student activists, human rights activists, and opposition supporters) were arrested for leading protests against poor governance in Zimbabwe. Meanwhile a well-known human rights defender, Itai Dzamara, has been missing since March 9, 2015. This governmental pushback has occurred under a progressive constitutional framework with an expanded bill of rights.
Between 2014 and 2016, civil society organizations in the human rights and democracy sector have made significant strides to ensure that Zimbabwe legislation is aligned to the new constitution that was adopted in March 2013. Consequently, key institutions supporting democracy such as the Zimbabwe Human Rights Commission, the National Peace and Reconciliation Commission and the Zimbabwe Anti-Corruption Commission were set up in this time period. However, these institutions are deliberately underfunded, and overpowered by the government. It is also important to note that Zimbabwe’s most recent political crisis resulted in the resignation of President Mugabe in November 2017. During this time, relations between the state and philanthropic organizations have become increasingly strained as philanthropic organizations call for reforms and the democratization of the political space.

**Question 9: To what extent are public policies and practices favorable for philanthropy?**

Score: 1.0

The government of Zimbabwe does not support the establishment of philanthropic organizations, nor does it provide access to resources or opportunities to improve the operation of these organizations. Philanthropic organizations in Zimbabwe are a haven of free thought and often have values that are against the authoritarian state; therefore, the government is not particularly interested in supporting independent nongovernmental organizations. In fact, in cases where the government gets access to information on advertised resources available for philanthropic organizations, it quickly dismisses the opportunities using the manipulated state media to label these resources as funds meant to destabilize the country. In 2017, the European Union advertised a call for expression of interest through the Democracy and Human Rights Fund. In response, the government publicly accused the European Union and local organizations of intention to overthrow the government by sponsoring or participating in insurgent activities.

The United States, the biggest donor in Zimbabwe, has often been accused of funding activities to destabilize the country and working with organizations that support opposition political parties. However, the position of the government of Zimbabwe is ambivalent. At times the government welcomes resources that channel funding towards humanitarian initiatives, for instance when the United States Agency for International Development made significant contributions to support the populations affected by the 2015-2016 drought.

**V. Socio-Cultural Environment**

**Question 10: To what extent are socio-cultural values and practices favorable for philanthropy?**

Score: 3.0

Despite the fact that Zimbabwe is a predominantly Christian society, there are harmful cultural and traditional practices that affect the conduct and operations of philanthropic organizations in the civic space and community activities.

Typical of most African societies, Zimbabwe has traditional practices and norms that often discourage women, particularly in rural settings, from participating in philanthropic activities;
especially those that seek to advocate for equality, and empower women and their knowledge of women's rights. Considering that women constitute 52 percent of the population in Zimbabwe, their participation in civic education activities is very low.

Zimbabwe also has a long-standing culture of intolerance and electoral violence spanning for over two decades. The government is authoritarian and permanently attempts to close the already limited democratic space available for philanthropic organizations. This conflict has led to violence and even the assassinations of civic society leaders and political opposition party activists. In closed communities where the ruling party has significant followers, PVOs are mistrusted and perceived as agents of an illegal regime change. Hence, there is limited participation in philanthropic organizations. This is especially true in rural areas in the Mashonaland provinces, where traditional leaders have been known to be supporters of the ruling party. These traditional leaders have a tendency to discourage and intimidate villagers from attending any kind of activities conducted by philanthropic organizations, and often punish those that defy and attend these activities. Punishments include violence and forced deployment from homesteads.

However, the opposite is true for organizations operating in urban areas, where it appears that the majority of the population perceives POs as progressive agents of social change. Ordinarily, urban dwellers trust POs and their activities. In urban settings, partnerships are starting to emerge between businesses and philanthropic organizations, especially in the field of environment and relief assistance. Businesses usually do not support philanthropic organizations working on advocacy initiatives, because of a fear of being labeled as "merchants of regime change" or deregistered (USAID, 2015).

VI. 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 in Zimbabwe is highly institutionalized with a few exceptions of loose social movements. The sector is well organized with pillars offering solidarity and technical support for philanthropic organizations. For instance, the National Association of Non-Governmental Organizations and the Crisis in Zimbabwe Coalition are prominent organizations that provide coordination to PVOs. The Zimbabwe Lawyers for Human Rights organization provides free legal aid to PVOs and human rights activists, and the Counselling Services Unit provides medical support to PVOs and activists. The sector also employs qualified professionals who design and implement projects. Most of these organizations have professionalized Boards of Directors and Trustees who provide advice and policy direction.

Three major recent events affecting the philanthropic landscape between January 2014 and December 2016

- The government has been resistant to align existing legislation to the constitution adopted in 2013
• In 2016 alone, over 500 PO leaders and human rights activists were arrested for leading protests against the deteriorating economic and political conditions in Zimbabwe

• President Mugabe issued a statement saying that POs funded by sources from Western countries will not be allowed to observe and monitor the 2018 elections

Future development trends in the philanthropic landscape

The philanthropic sector has received a decreasing amount of funds from international donors that has caused the sector to shrink and become less vocal on the governance crisis in Zimbabwe. This trend is also influenced by global trends and shifting priorities. New social movements began to emerge between 2015 and 2016 and were pivotal in the protests of 2016. It is unlikely, however, that these movements will continue to operate using loose social structures because they require funding to implement consistent activities and will soon be institutionalized. The succession of the ruling party is likely to lead the country be governed by a dynasty that will close the little available democratic space as the dynasty attempts to consolidate its political power. This landscape makes the operations of POs very difficult. Given the traditional relationships that exist between the opposition parties and POs, it is likely that these relationships will not be as defined as in previous years due to the fact that increasing number of POs are moving away from the opposition.

Three key recommendations to improve the environment for philanthropy

• The government of Zimbabwe should immediately uphold the constitution by amending the Public Order and Security Act to allow more space for POs to undertake their activities without hindrance as the country heads towards the 2018 elections

• International donors should extend more funding opportunities to POs to allow them to fulfill their mandate in undertaking civic education and voter education

• The government of Zimbabwe should consider liberalization of the registration of POs, remove stringent conditions to attain the PVO status, and prevent harmful practices that discourage rural citizens from participating in PO activities and programs