Pakistan

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Foundation, Cooperative, Company Limited by Guarantee, Trust, Society

Five main social issues addressed by these organizations: Primary and High School Education, Basic Needs, Housing and Economic Development, Water and Sanitation, Human Rights

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

Average cost for registering a philanthropic organization: US $500

“While the registration fee under the Societies Act is PKR 1,500 (approximately US $15), registration under Section 42 of the Companies Ordinance costs PKR 25,000 (approximately US $240). In addition, consultants may charge an additional PKR 50,000 - PKR 275,000 (approximately US $480 - $2,600) to complete the formalities involved” (USAID 2016, p. 3)

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

Nonprofits can also seek licenses from the Securities and Exchange Commission of Pakistan SECP, a federal body that regulates companies in Pakistan.

Philanthropic Environmental Scores:

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<td>2018</td>
<td>3.7</td>
<td>3.5</td>
<td>3.0</td>
<td>3.5</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: 4.0

Individuals in Pakistan are free to form organizations, associations, foundations or any other type of nonprofits (Articles 15-17 of the Constitution of Pakistan). Several laws allow such registrations or authorizations to work as nonprofit organizations or social welfare agencies. In terms of purposes, generally there are no restrictions on the type of objectives toward which organizations want to work. The only restriction is that organizations cannot be formed for the promotion of sectarian differences.

Clear and concise guidelines are available and can easily be accessed by individuals interested in forming organizations to pursue intended objectives. In many cases these guidelines are available free of charge or on the payment of nominal fees. The departments that are responsible for such registrations are well staffed; for example the Department of Social Welfare appoints its welfare officers in rural and urban areas and processes applications for registration of welfare bodies. Capacity is not an issue especially in the case of the Department of Social Welfare. Similarly, the Securities and Exchange Commission of Pakistan takes care of nonprofit companies and authorizes organizations operating as nonprofit companies. Registration under the Societies Act of 1860, though is the favored act upon which individuals seek registration, may have certain staffing and capacity issues.

Nonprofits seek licenses from the Securities and Exchange Commission of Pakistan and are eligible to operate throughout the country. There is a perception that the license from SECP brings credibility to the organization. Organizations seeking a license from SECP must have certain systems and procedures in place; the process is relatively extensive compared to registrations under other laws. Organizations can seek registrations to operate at provincial or district levels. In Pakistan, organizations usually seek registrations under The Voluntary Social Welfare Agencies (Registration and Control) Ordinance of 1961, Registration of Societies Act 1860 or Companies Ordinance 1984.

Question 2: To what extent are POs free to operate without excessive government interference?

Score: 4.0

Philanthropic organizations play a vital role in the society of Pakistan and they are independent to operate in all sectors. Although, at times, governmental and legal issues create hurdles, these are usually minor in nature.

This indicator focuses on three different aspects of POs operations. 1) POs facing barriers due to rules and regulations; 2) POs social interdependence and independence; and 3) reporting requirements. The Pakistani government is working on solving issues with the registration processes
in order to ease out operations for POs, but it takes time to bring a change. For instance, the Pakistani government is striving to ease out the limitation in POs registration and operation to improve transparency, allowing for POs to advocate social change in a trustworthy way. Additionally, POs have complete freedom to reach out to media and advertise their message, and there are no legal limitations although the image of philanthropic organizations is not entirely positive.

Lastly, although the programs for registration and legal issues are quite clear and consistent, POs have to pay meticulous attention to detail which can add months to the registration process. In certain parts of the country, organizations are required to seek a “no-objection certificate” from the district management to organize workshops and similar events. This creates hurdles and discourages POs from engaging in awareness and capacity building activities. In conclusion, based on above three mentioned criteria, it is deemed to score this indicator as 4.

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

**Score: 3.0**

There are two different aspects of this indicator, 1) how easy it is for government to terminate a PO after the violation has been observed; and 2) how independent is the organization’s governing body to terminate its own activities.

Generally there has been eras when government would start scrutinizing philanthropic organizations and would cancel the registration of those who failed to prove their active status. The latest phase started after the terrorist attack in the Army Public School in Peshawar. At the same time, a written petition by an individual to the Supreme Court of Pakistan resulted in a nationwide drive of verifying the credentials of philanthropic organizations throughout the country. The Security and Exchange Commission of Pakistan (SECP) cancelled licenses of over 200 nonprofit companies, two other provinces followed suit and canceled the registration of almost 2,400 nongovernmental organizations in the provinces of Sindh and Balochistan. The reasons given for these cancellations were noncompliance in terms of failure to submit documents including annual audited accounts, performance reports etc. The noncompliance reason for shutting down an organization is not a recent phenomenon, it has existed before; the difference now is that the government has started enforcing it. In all these cases, government provided organizations with enough time to comply with the regulatory requirements. Secondly, the organizations can voluntary terminate their activities based on the decision of its Board; however, we have not seen such cases in the recent past.

**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**

Individuals and corporations have access to income tax deductions and credits on charitable donations. Persons (individual or association of persons) are entitled to a deductible allowance for
the amount of any Zakat paid by the person in a tax year (Clause 60 of the Tax Ordinance of 2001). Persons are also entitled to tax credit on donations to any board of education or any university, educational institutions, hospitals, relief funds, or any nonprofit organization registered as such (Clause 61). Nonprofit organizations can pursue religious, charitable, educational purposes or promote amateur sports.

As far as receiving tax deductions is concerned, the process is lengthy but very clear. For instance, in order to receive tax benefits, the philanthropic organizations in the social sector complete an application following a set number of documents. Among these documents, an evaluation by the Pakistan Centre for Philanthropy is encouraged, giving a competitive advantage to organizations for tax exemption benefits. Furthermore, the government does not inhibit the organizations or individuals in making charitable donations and put no, or very low, limits on these donations. For instance, there are a variety of tax related formulas provided by the Income Tax Ordinance of 2001, which determines how much of the income tax benefit or tax credit can be offered by individuals and that it should not exceed their salary.

In addition to this there are a few limits on receiving donations depending on the nature of the organizations; but mostly there are no restrictions to receive or give donations.

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

Score: 4.0

There are different types of incentives for different types of organizations receiving donations. For instance, non-governmental State Development Organizations (SDOs), governmental-affiliated SDOs and religious organizations can enjoy access to income tax deductions /credits from the government. In general, the income of a welfare institution or nonprofit organization, expended in Pakistan for the purposes of carrying out welfare activities, are eligible for tax credit (Clause 100).

Philanthropic organizations operating in the social sector depend primarily on donor funding whether it is provided by individual or organizational donors. However, due to the common perception of POs being financially sustainable, it becomes a hurdle to obtain/raise funds locally. The philanthropic culture in Pakistan is inspiring, nevertheless most of the donation is received either by religious or renowned organizations like the Shoukat Khanam and Edhi Foundation. For this reason, many POs receive funding from organizations like USAID, DFID, KFW, UNHCR, and the European Union. Due to these obvious requirements, the organizations can avail charitable donations without any limitations.

Furthermore, in order to avail the tax benefits, the organizations also have to register with the Federal Board of Revenue by completing and submitting a list of documents. While the requirements and process to receive these benefits is lengthy, it is also very clear and consistent.
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**

The legal regulatory environment is quite favorable for sending cross-border donations. Nationals are allowed to send donations abroad within a monetary limit without any penalty, but the conditions vary for different types of organizations. Duties are applied while sending donations abroad. Although the process of sending donations abroad is quite clear and concrete, it is not a commonly observed behavior. Since philanthropic organizations in Pakistan are themselves facing problems in getting donations, they try to attract all the donations which could be potentially sent abroad.

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

**Score: 3.0**

In the case of receiving donations, the legal environment is equally favorable. Either individuals or organizations can receive charitable donations within a monetary limit without any penalty. Unlike sending donations, receiving donations is a common feature since the situation of funding and financial resources is limited in Pakistan. However a no-objection certificate and registration documents from the Economic Affairs Division of the Ministry of Finance, Revenue, Economic Affairs, Statistics and Privatization, is mandatory to receive any donations coming from abroad. Additionally, the limit on the funding again varies with different organizations.

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?**

**Score: 4.0**

The relationship between the political and philanthropic sectors is twofold. On one side, philanthropic passion is widely shared throughout the nation and actors in the political environment identify and accept the role of philanthropy in social change. On the other side, due to the involvement of foreign interventions, political identities are skeptical too. The government and philanthropic sectors are both working together for effective social change. For instance, recently the government amended the...
law to create the concept of social enterprise allowing organizations of the social sector to generate income for self-sustainability. Philanthropic freedom is widely appreciated politically and many political parties are actively participating in programs aimed at improving the conditions of downtrodden and marginalized sections of the society. The government has been running an awareness campaign (through national TV) for the masses to ensure that they donate to deserving and trustworthy people/organizations. It is also important to mention that due to the unsustainable economic conditions in Pakistan, the philanthropic sector is also facing hurdles handling their expenses, which is largely affected by the political disturbance in the country.

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

Score: 3.0

Philanthropy in Pakistan can be studied from three perspectives: individual giving, corporate giving and international giving. Individual giving has no issues and has grown 3.5 times over in a 15 year period; more than 3 times in the 1998-2014 period (Pakistan Centre for Philanthropy, 2016). The study by the Pakistan Centre for Philanthropy (2016) estimated individual giving to be over PKR 240 billion (US $2.27 billion) in 2014 as compared to PKR 70 billion (US $0.6 billion) 15 years ago.

When it comes to corporate giving at local levels, organizations are free to donate as per their wishes. The government is more interested in the amount philanthropic organizations allocate to benefit communities and less concerned about the type of activities carried out by them. There were times when government was very lenient about the support/funding or grants provided by international organizations to local philanthropic organizations and would not require information from local or international organizations about the details of their budgets and activities. However, in the last two years the process of receiving international grants has become complex. The government requires detailed information about amounts, purposes and use of funds. International and national NGOs are asked to sign Memoranda of Understanding (MOUs) with government departments at the federal level. Signing the MOU is a lengthy and tedious process that requires patience from those seeking such arrangements with the public sector. NGOs in Pakistan see it as a major hurdle for the growth of the philanthropic sector.

**V. Socio-Cultural Environment**

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

Score: 4.0

Giving is deeply embedded in the Pakistani society due to the very obvious attachment of the nation with religion. The Islamic religion widely promotes philanthropy and is profoundly rooted in the religious teachings. The aforementioned study of the Pakistan Centre of Philanthropy (2016, p.3) estimates that “nearly 98 percent of Pakistanis either give through cash, in-kind, or time volunteered". Thirty percent is monetary non-Zakat type of giving and 34 percent is time volunteered. However, there is a gap, because the Islamic teachings focus mostly on individual philanthropy and giving donations to relatives or people in need. Due to this fact, individual giving (giving to individuals in
need) is great (67%) but at the same time giving to organizations (34%) is not so common and organizations in the philanthropic sector are facing challenges because of that.

One of the basic reasons for avoiding donations to philanthropic institutions is the lack of trust that society has regarding these organizations. Since several philanthropic organizations have been involved in different controversial activities, society does not appreciate the act of giving to them. Except for a couple institutions like Edhi Foundation and Shaukat Khanam Memorial Hospital, local populations tend not to trust POs. At the same time, the philanthropic institutions are doing social work on a wide scale, which is recognized by society, and the general understanding of their role in society is improving day by day.

Furthermore, POs are becoming more open to the idea of gender identity; for instance, recently a lot of work is being done related to transsexual populations in the country. The representation of women in the philanthropic sector, as well as in the workforce in Pakistan has increased in recent years. Women are taking part in leading POs, but not as much as men due to cultural patterns that still create an unfavorable environment for equal conditions for women in the workplace.

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

Individual philanthropy is highly informal in Pakistan. Undocumented individual giving at the rate of almost PKR 240 billion (US $2.27 billion) is evidence that charitable contribution is informal. On the other side, availability of over 10 legal instruments under which individuals can seek licenses to establish and operate nonprofits demonstrate that diversity and flexibility is a key feature of the sector. A number of think-tanks and networks represent the philanthropic sector and raise voices when needed to safeguard the interests of philanthropic organizations. The philanthropic sector is highly professionalized. All major universities offer courses related to the philanthropic sector and thousands of students graduate from these universities and join the sector afterward. POs are preferred to the public sector and in certain cases even to the private sector. Inter and intra-sectoral collaborations are common and widely practiced.

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

- APS terrorist attack in December, 2014. A terrorist attack on Army Public School Peshawar in 2014 forced the government to verify credentials of national and international organizations in Pakistan; and

- Criminal Petition No.210 of 2015 by Muhammad Haroon ur Rasheed versus the State and other respondent(s). The bail petition opened the Pandora box and led to a nationwide verification of organizations registered under various laws and instruments.
Future development trends in the philanthropic landscape

Individual philanthropy is likely to be on the rise. This would be due to its religious dimensions in Pakistan. There is strong likelihood that the government further streamlines the registration process and continues with the drive to ensure that each organization strictly complies with the laws under which it was registered. Traditional international financial flows would further decline, yet there are chances that new players appear and start providing funds to philanthropic organizations, but the sector will likely face a significant amount of uncertainty for another three to five years.

Three key recommendations to improve the environment for philanthropy

- Grant-dependent organizations should start transforming their organizational models to social enterprise models so that they are able to raise funds for themselves;

- Small-scale philanthropic organizations should be provided with the training opportunities to build the capacity of organizations and to fulfill compliance requirements of regulatory bodies; and

- Media should highlight the contributions of the philanthropic sector in the betterment of society.