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Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Hong Kong

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Society, Trust, Company Limited by Guarantee, Statutory Body Established by Government Legislation

Five main social issues addressed by these organizations: Arts and Culture, Basic Needs, Health and Medical Research, Youth and Family

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

Average cost for registering a philanthropic organization: USD 32

The average registration cost is Between HKD 155 – HKD 340 (USD 20 – USD 44) and not including the incorporation fee, if the philanthropic organization (PO) registers under the Companies Ordinance 622. Additionally, the cost also depends on the number of members. An additional HKD 250 (USD 32) is required for a one-year business registration fee.

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

Philanthropic Environment Scores:

Year	Ease of Operating a PO	Tax Incentives	Cross-Border Philanthropic Flows	Political Environment	Economic Environment	Socio-Cultural Environment	Overall Score
2022 GPEI	4.33	4.25	4.75	2.85	3.50	4.00	3.95
2018 GPEI	4.83	4.25	5.00	3.00	N. A.	4.00	4.22

Source: Indiana University Lilly Family School of Philanthropy, 2022 *Global Philanthropy Environment Index*

Key Findings

I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three indicator questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration; (B) operations; and (C) dissolution.

Question One: To what extent can individuals form and incorporate the organizations defined?

Score: 4.0

Charity laws in Hong Kong continue a piecemeal approach to regulation and oversight of the social sector. Regulatory reform has not been taken, so charity laws remain secondary to company laws. With the dramatic changes taking place in 2020 around government intervention from mainland China, the ability to form philanthropic organizations will likely be more restricted than before. While a Company by Limited Guarantee can be set up fairly quickly, with registration approved within 30 days, gaining tax-exempt charitable status with the Inland Revenue Department can take up to a year.

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

Score: 4.5

By the letter of the law, philanthropic organizations continue to be free to operate their internal governance without impediments. However, 2020 brought new government intervention and changes in attitude toward democratic freedoms, resulting in growing limitations on activities and communications. These changes are perhaps not because of any specifically enacted law, but rather due to shifts in attitude (and fear of loss of freedom and threat of censorship) given the increasing influence of the mainland Chinese government. The Independent Commission Against Corruption (ICAC) has launched the Best Practice Checklist called "Management of Charities and Fund-raising Activities" for reference by charitable organizations. The Social Welfare Department has also provided a guidance note on internal financial controls for charitable fundraising activities. While these guides are certainly helpful, government interference not taking place is still questionable given the current political uncertainty.

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

Score: 4.5

There are few regulations or supervisions on government discretion in closing philanthropic organizations. Because of the scattered regulatory environment, there is inconsistency in the implementation of involuntary dissolutions. According to the Inland Revenue Department (IRD), it is essential for a tax-exempt charity to notify the Department within one month of the following circumstances: (a) change of its correspondence address; (b) alteration to its governing instrument; (c) termination of its subsidiary body (i.e., a service unit or time limited project) separately disclosed

on the list of tax-exempt charities; or (d) cessation of its operation, dissolution or winding up. IRD continues by stating that “Failure of notification may lead the Department to cease accepting it as a tax-exempt charity. If an organization has ceased operation or become dormant, it would be difficult, if not impossible, for the Department to assess whether the organization as a matter of fact continues to be a charity and it is not unreasonable for the Department to consider such cessation or dormancy when assessing whether the organization continues to be a charity for the purpose of Section 88. If an organization was dissolved or wound up, there is no longer any charity eligible for tax exemption under Section 88. The tax exemption under Section 88 would no longer apply to the organization.”

With the increasing fears of freedoms being taken away due to the passage of the 2020 national security law, it has led to a chilling effect on PO's that may be flagged as pro-democracy.

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: 4.5

The tax system continues to provide deductions for approved charitable donations of up to 35 percent of the individual or business's assessable income or profits in the year during which donations were made. With taxes in Hong Kong being relatively low in the world (15% standard rate on income after deductions), the tax deduction is less of an incentive than it is for most other countries.

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

Score: 4.0

A charity is exempt from tax under Section 88 of the Inland Revenue Ordinance (IRO). However, gaining charity status can be difficult. Based on the definition of charitable purposes according to an 1891 law, stating charitable purposes as 1) the relief of poverty; 2) the advancement of education; 3) the advancement of religion; and 4) other purposes of a charitable nature beneficial to the community not falling under the previous three. Thus, charities not working in these areas may find it harder to gain tax-exempt status. Charities are tax-exempt and are also exempt from stamp duty and business registration fees, thus the tax system is fairly favorable to philanthropic 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 Six: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 5.0

Cross-border donations are allowed, but do not qualify for a charitable tax deduction. An approved charitable donation is defined under Section 2 IRO as “to any charitable institution or trust of a public character, which is exempt from tax under Section 88 of IRO, or to the Government.” Global nonprofits often register local offices to be able to secure local donations that then support work in other parts of the world. However, there are growing philanthropic intermediaries, such as Give2Asia and the King Baudouin Foundation and their global affiliates, which provide the ability for donors in Hong Kong to give internationally while also being able to receive tax deductions.

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

Score: 4.5

Cross-border donations can be received without additional costs. The sheer volume of banks, financial service firms, and other groups in Hong Kong provide many options for cross-border charitable donations. There are the standard anti-money laundering mechanisms and fraud detection practices in place, but this is generally not an impediment to receiving cross-border donations. That said, with increasing influence from the mainland Chinese government, these rules may very well change with no notice, which may impact the perception and safety of cross-border donations in Hong Kong.

IV. Political Environment

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

Question Eight: To what extent is the political environment favorable for philanthropy?

Score: 2.5

Because of the relatively strict definition of philanthropic organizations as only working in education, social service, and health, there is a two-tiered class of philanthropic organizations. The government is very supportive of these POs, providing substantial financial support. However, as noted in previous sections, the government does not appreciate the role of philanthropic organizations as change agents or advocates. This attitude has only strengthened in the wake of political changes in 2019 and 2020 with greater influence from China. The overall uncertainty amidst the political instability in Hong Kong, coupled with the overall economic difficulty due to the COVID-19 pandemic, makes it a challenging time to encourage philanthropy. That said, there continue to be pockets of philanthropy coming from the individually wealthy in Hong Kong, who have enjoyed rising equity and property prices.

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

Score: 3.2

Beyond a loosely regulated charitable environment with an individual charitable deduction of up to 35 percent of net assessable income, the government has limited action in terms of promoting a cultural philanthropic tradition. The government does promote and provide resources to some organizations, such as through the Hong Kong Jockey Club and the Community Chest of Hong Kong, but there is no overarching office or strategy to develop philanthropy. Previous sections have noted efforts to reform the charity sector over the years, but efforts have not resulted in any reform to date. Donors and funders of POs are free to support any philanthropic cause or organization without government pressure. However, with potential changes in policies and current uncertainty around how much control the Communist government seeks to exert on the people of Hong Kong, this makes it a time when charitable laws and practices may not receive the attention they need to generate any positive reform.

V. Economic Environment

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

Score: 3.5

The Hong Kong economy shrank by a record 6.1 percent in 2020 due to the economic effects of the COVID-19 pandemic. Unemployment surged to a 16-year high of 6.6 percent at the end of 2020. These challenges continue into 2021. While vaccines are being distributed, it will be some time before things get back to “normal.” Many of the middle and lower social classes are disproportionately affected. The economic uncertainty is compounded by political turmoil in Hong Kong, which impacts foreign capital flows into Hong Kong, as well as jobs, as many consider the possibility of permanently leaving Hong Kong for Australia, Canada, the United Kingdom, and other places.

VI. Socio-Cultural Environment

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

Score: 4.0

While the culture of philanthropy in Hong Kong is highly steeped in Confucian values and supporting those in need, the current practice of philanthropy is considered low relative to the wealth and income in Hong Kong. This is in part due to low tax incentives for philanthropy and loose regulatory structures for charity, but more so it is a function of the culture of Hong Kong. Many social needs are seemingly hidden away (poor public housing and elder care is not discussed); and there is a much larger emphasis on attaining an expensive lifestyle—the sheer amount of marketing and promotion of the retail industry overwhelms any sense of social good and desire to give back. Real estate in Hong Kong, which in some measures is the world’s most expensive, also plays into people’s lack of desire to give. The constant attention toward money, property, and equity markets, over time blunts any trends of valuing philanthropy. The recent economic and political uncertainty in 2019 and 2020 also

do not bode well for placing a higher value on philanthropy and voluntary services in Hong Kong. Any top-down government approach or quashing of unfavorable philanthropic and volunteering campaigns will only serve to discourage further philanthropy beyond the official channels approved by the government.

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

Philanthropy in Hong Kong is generally well developed. There is an enabling legal framework, tax incentives for philanthropic organizations and donors, and substantial funding from the government for social service agencies. Most POs are free to solicit donations from the public and from overseas. There are many global nonprofits with offices in Hong Kong. Some individual donors are very generous, and there is also a network of charitable foundations: the Hong Kong Foundations Exchange (HKFx). HKFx is a network of 40 philanthropic foundations based in Hong Kong. Established in May 2012, they hope to encourage stronger ties between private foundations, charitable trusts, philanthropies and other similarly constituted grantmaking organizations in Hong Kong. members pay attention to various topics, including arts, children and youth, culture and heritage, education, elderly, environment, healthcare, human rights, poverty, science and technology, and women and girls. With the recent changes in the political environment, it is uncertain whether the philanthropic sector's development will continue as is or how it will change. Individuals that expatriate to other countries, particularly wealthy families, may see their philanthropy move out of Hong Kong. Prominent private groups supporting the sector include the Hong Kong Council of Social Services, the Hong Kong Jockey Club, Hong Kong Institute of Social Impact Analysts, Community Chest of Hong Kong, and the Hong Kong Federation of Youth Groups.

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

1. Summer 2019: anti-government and pro-democracy protests, involving violent clashes with police, against a proposal to allow extradition to mainland China.
2. February 2020: the COVID-19 pandemic has essentially shut down the city economically.
3. July 2020: China's new national security law, which gives Beijing broad powers to crack down on political dissent against the Chinese Communist Party, came in full effect in Hong Kong.

Future development trends in the philanthropic landscape

Corporations and businesses in Hong Kong are already keen on utilizing new financial tools to expand their philanthropic impact. This includes social impact bonds, impact investing, venture philanthropy, and supporting social enterprises. In a way, the corporate sector is further advanced than the philanthropic sector when it comes to identifying ways to have greater impact. Given the uncertain future of business in Hong Kong amidst the political and economic turmoil, this emerging form of philanthropy may grow or it may not. However, the tightening linkages with mainland China will also influence Hong Kong's philanthropy in the years ahead. How the government chooses to

allow for various forms and channels of philanthropy will be a deciding factor on the pace of philanthropy's development in Hong Kong.

Three key recommendations to improve the environment for philanthropy

- Reform charity laws to provide better guidance and support for philanthropic organizations.
- Ensure philanthropic organizations have the ability to carry out their mission by making it easier to receive donations locally and internationally. In addition, provide greater tax incentives to drive donation growth. The wealth is there in Hong Kong, but the culture of philanthropy needs to be encouraged to develop.
- Provide incentives and opportunities for new forms of philanthropy to grow, such as impact investing, venture philanthropy, and social impact bonds. There is great economic need in Hong Kong, and new forms of philanthropy could serve as and perhaps incentives for locals to stay.

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

Areas where philanthropy responded include:

- Mental health among young people, such youth struggling through online school. Mental health issues among young people are compounded by economic and political uncertainty.
- Helping the unemployed with food donations. HandsOn Hong Kong is helping the elderly, disabled, and low income with food, masks, cleaning supplies, and other needed materials.

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

Like all organizations that have had to adapt because of the pandemic, fundraisers that involved getting people together for dinners and fancy events had to also be changed. Although people were working from home and in-person events were not possible, some organizations continued to encourage a spirit of philanthropy. One example in Hong Kong was a virtual "Operation Santa Claus," an annual Christmas-themed fundraising drive co-organized by South China Morning Post and public broadcaster Radio Television Hong Kong (RTHK) since 1988. Other examples of innovation in philanthropy in response to COVID-19 was the adoption of "high-risk" philanthropy, as profiled by the Chen Yat-Sen Foundation in Hong Kong. Chairman of the foundation James Chen utilized the practice of catalytic philanthropy—which involves putting in loss-absorbing capital and building domain expertise on an issue to bring about long-term change. Catalytic philanthropy is about investing time, nurturing expertise, and aligning the investment with the donor's values and insights while expecting no financial gain in return. Philanthropists are positioned to serve this long-term timeframe to pursue solutions that do not need a financial return immediately, such as the pursuit of a vaccine. Foundations and philanthropists can partner alongside corporations and governments to accelerate research and distribution of vaccines.

Impact of COVID-19 on the philanthropic environment

The pandemic has had significant impacts on Hong Kong's philanthropic environment. Most of the challenges are due to health and economic impacts, but nonetheless the spirit and culture of philanthropy needs repair. The needs in the country are as great as they have been in any recent time.

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

As the pandemic continues, with repeated lockdowns and school closures, Hong Kong is far from back to normal. COVID-19 will continue to be a challenge in 2021 for the philanthropic environment. On the positive side, wealth continues to be generated among those with jobs and equity and property portfolios. If vaccines can be distributed to the population in 2021, then we may see a resurgence of economic activity and jobs, leading to greater philanthropy.

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