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Lilly Family School of Philanthropy

The 2022 Global Philanthropy Environment Index Philippines

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QUICK FACTS

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

Five main social issues addressed by these organizations: Basic Needs, Environment, Health and Medical Research, Housing and Economic Development, Education

Average time established by law to register a philanthropic organization: 61-90 days

Average cost for registering a philanthropic organization: USD 0

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 | 3.83 | 4.00 | 4.25 | 3.00 | 3.00 | 4.50 | 3.76 |
| 2018 | 4.00 | 3.75 | 4.25 | 4.50 | N.A. | 4.00 | 4.10 |

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?

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| Score: 4.0 |
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POs may perform their functions according to their purposes even without registering. However, if POs need to enter into any contract, then registration is necessary. To acquire their legal personality, POs register with mandated regulatory government agencies such as the Securities and Exchange Commission (SEC), the Bureau of Internal Revenue (BIR), the Cooperative Development Authority (CDA), the Department of Social Welfare and Development (DSWD) or the local government unit. A special SEC provision (SEC Memorandum Circular No. 8, Series of 2006) for the registration of foundations requires POs to have a starting fund of PHP 1 million (USD 20,000) and to show evidence of these funds. Once registered, POs submit required documents regularly or annually.

POs commonly access announcements, new memorandum circulars (MCs), and government forms from these agencies' websites. In order to receive and disburse funds legally (specially to issue official receipts) and to account for the use of its funds, a PO needs to register with the BIR. The registration requires a PO to obtain a business permit from the local government where it operates and a certificate of registration with either the SEC, CDA, or other government agencies. Failure to comply with BIR rules comes with steep penalties and can be grounds for closure of a PO.

In 2018, POs are required to additionally register with or be accredited by specific government agencies like the Department of Social Welfare and Development (DSWD) and the Department of Interior and Local Government (DILG), according to the DSWD MC No. 5, Series of 2015, and the DILG MC No. 89, Series of 2018 regulations. The registration/accreditation allows POs to engage or jointly implement programs and projects with the agencies, with or without the use of government funds.

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

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| Score: 3.5 |
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As long as the purposes and operations of a PO are not contrary to law, there are no government restrictions on their structure and governance. However, the SEC has rather strict provisions on the practice of good corporate governance, particularly in terms of the percentage of funds that can be used for the administration of projects, requirements to conduct audits on the use of funds, board composition and rules, the disposal of assets in the event of dissolution, and on ensuring that none of the net surplus of the PO is distributed among its members and officers. In addition, the SEC requires the head of the PO to declare annually the sources and uses of its funds and a certification

from local government or specific government agencies regarding the actual conduct of its activities in specific geographic areas.

In 2019, SEC issued two memorandum circulars (SEC MC No. 15, Series of 2019, and SEC MC No. 19, Series of 2019) that require registered POs to submit additional information: funding sources, program/project activities and beneficiaries, and beneficial owners. These are to be used for risk assessment and monitoring money laundering and terrorist financing abuse. Failure to disclose may be grounds for termination. While the provisions on good governance are laudable, they apply more easily to medium and large-sized organizations. It is more difficult for small organizations with a lean staff and limited resources to follow these rules. In fact, many small POs may not be able to afford annual audit fees. To supplement the government’s national legislative response to the COVID-19 pandemic, the SEC and BIR adjusted their guidelines on compliance to regulatory requirements—for example, POs can postpone the conduct of its annual assembly, ; use remote communication and video conferencing for election of officers, and submit audited financial statements on later submission dates.

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

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| Score: 4.0 |
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There are no laws that prescribe when and how a PO may be dissolved. However, the Corporation Code of the Philippines regulates the disposal of remaining assets of a registered PO in the event of dissolution. Among others, a PO being dissolved can only donate its remaining assets either to the government or to other organizations with similar purposes (Revenue Regulation No. 13-98, Section 1). The SEC may terminate the registration of a PO on grounds such as fraud in procuring its certificate of registration, serious misrepresentation that may cause great prejudice or damage to the general public, refusal to comply with any SEC lawful order considered as grave violation, continuous non-operation for a period of at least five years. failure to file the by-laws within the required period, or failure to comply with its reportorial requirements in appropriate forms within prescribed period (Presidential Decree No. 902-A, Section 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 Four: To what extent is the tax system favorable to making charitable donations?

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| Score: 3.5 |
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Individual and corporate tax deductions for philanthropic donations are governed by the Donor’s Tax policy of the BIR and are subject to the provisions on tax deductions of Sec. 34 of the National Internal Revenue Code (NIRC). As a general rule, donations to POs made by individuals are deductible expenses of up to ten percent of their gross income, while corporations are allowed up to five percent of their gross income. All donations made to POs with donee institution status are deductible in full.

With the implementation of the Tax Reform for Acceleration and Inclusion (TRAIN) Law in 2018, provisions of the donor's tax became simpler. The TRAIN law provides that a donor can donate up to PHP 250,000 tax-free, and sets a uniform annual donor's tax rate of 6 percent for donations above PHP 250,000, as opposed to the previous bracket schedule of rates from 2 percent to 15 percent. Several rules and mandatory requirements are still to be complied with before a claim for tax deduction can be made such as providing the deed of donation, proof of claimed tax credit, proof of payment, and copy of tax debit memo.

For the purpose of combating COVID-19 during the period of national emergency in 2020, the BIR issued a regulation that donations such as cash, healthcare equipment or supplies, relief goods, and use of property (such as shuttle service or use of lots/buildings) are fully deductible and exempted from donor's tax and value-added tax (VAT) against the gross income of the donor (corporation or individual). Claims for deductions must be supported with necessary and mandatory documents.

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

Score: 4.5

Non-stock, nonprofit organizations registered with the SEC can avail income tax exemption through a separate registration process with the BIR for donee institution status. Income tax exemption for POs ascertains that the PO's net income will not benefit any private shareholder for their private interest. However, the income tax exemption does not cover taxes for other incomes derived from the use of its assets, such as building rental.

Any registered PO is eligible to receive charitable donations. However, POs with donee institution status from the BIR can accord their donors the benefit of full tax deductibility on their donations. A certification by the Philippine Council for NGO Certification (PCNC) is required by the BIR before granting donee institution status. The PCNC is a private, non-stock, nonprofit corporation that is officially recognized by the government to certify and endorse that a non-stock, nonprofit corporation abides by pertinent laws and practices good governance. PCNC conducts a thorough assessment of the non-stock, nonprofit corporation's operation and financial records before giving them a limited one, three, or five-year certification. At present, there are only 385 PCNC-certified nonprofits in the Philippines that are able to access funds from individuals and corporations (Philippine Council for NGO Certification, 2021). The percentage of funds received by nonprofits through this source is small compared to other sources such as government grants, private foundations, and international donor 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: 4.0

Donations to foreign institutions are deductible in full but are subject to the limitations of allowable tax deductions for individuals and corporations. There are no explicit restrictions for sending charitable donations abroad.

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

Score: 4.5

Donations from international sources, particularly for relief goods, medicines and medical supplies/equipment, books, educational/scientific/cultural materials, essential machinery and equipment, and essential consumer goods not available at the time of calamities, are exempt from import duties and value-added tax. Foreign donations to registered nonprofit, religious or charitable institutions duly licensed by the DSWD, educational institutions accredited by the Department of Education (DepEd), and educational/scientific/cultural institutions approved by the DepEd or the United Nations Educational, Scientific and Cultural Organization (UNESCO) are duty-free. There are no explicit restrictions for local organizations to receive grants and donations from foreign sources. The government is silent on taxation of financial contributions to nonprofits coming from foreign sources but in practice, foreign donor institutions have been giving grants directly to local nonprofits.

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

There are a number of public-private cooperation schemes to address social problems. On many occasions, the government taps private funds to leverage its own resources to address these problems. Formal and informal structures that promote public participation in government decision-making at the national and local government levels remain. POs engage with specific executive and legislative agencies on specific issues like education reform, the Open Government Partnership (OGP), PO regulations, Freedom of Information (FOI), and human rights, with varying degrees of success. The supermajorities created in both Houses of Congress makes it more difficult for POs to advocate democratically for their legislative agendas.

Civic spaces have been narrowing in the past five years. With the continuing extrajudicial killings related to the “war on drugs,” an increasing number of POs involved in advocacy or those that are critical of the government have reported incidents of state harassment and violence. In 2019, heightened attacks on media, environmental defenders, and human rights groups were documented. The national government had also begun an intensive crackdown on so-called terrorists and communist groups with the creation of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC). The task force has (maliciously) implicated local and international POs and grant-making agencies as “terrorist groups” or “supporters” based on suspicions and without clear proof. “Red-tagging” has become a buzz word. With the passage of the Anti-Terrorism Act of 2020, the political environment effectively stifles dissenting voices and affects the relations of philanthropic organizations. In 2020, POs and PO coalitions, including development, humanitarian, and faith-based ones, filed 37 petitions at the Supreme Court to question the constitutionality of several draconian provisions of the said law.

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

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| Score: 3.5 |
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The Philippine Constitution guarantees an enabling environment for POs to form and incorporate. Laws such as the 1991 Local Government Code and Social Reform and Poverty Alleviation Act encourage POs to form, to participate in governance processes, and to partner with the government for public service delivery. The Department of Interior and Local Government (DILG) continues to issue memorandum circulars (MCs), the most recent of which are guidelines on the executive department’s engagement with POs, the accreditation of civil society organizations, and the selection of representatives to the Local Special Bodies in local government units.

Tax exemption is the major incentive provided by the government to philanthropic work. However, nonprofits are also fund users themselves that rely a lot on public and private subsidies and donations to perform their work. Philanthropic organizations can engage in a broad range of fundraising activities, but they do not always have the information or funding to effectively bid on and implement contracts for the government. Bid requirements are also quite stringent for POs to comply with—for example, requirements are the same for POs and corporations, including filing of performance bonds. While the government is open to working with philanthropic organizations in various instances, the relatively low level of incentives that it provides to individual and corporate giving does little to encourage its growth. At the same time, there are no restrictions as to what charitable institutions can support in the country and there are no barriers for international grantmaking agencies to enter the country. There are also no support services from the government for this sector. Regulation of the sector by the government is slowly increasing as a result of recent incentive abuses, but the regulatory environment can still be considered liberal.

V. Economic Environment

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

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| Score: 3.0 |
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The Filipino economy did well from 2012–2019, but slowed at 5.8 percent in 2019, which the World Bank marked as the lowest growth level within the eight-year period. As private companies and individuals benefit from the increasing wealth that is produced by economic growth, there are more resources that go to philanthropy. There were growing initiatives in tapping philanthropic funds from Overseas Filipino Workers (OFWs). OFW remittances constitute more than 10 percent of gross domestic product (GDP). While a large part of these remittances supports OFW families, surplus income is flowing towards charitable giving.

In 2020, the COVID-19 pandemic and the quarantine restrictions had a crippling effect in the Philippine economy. While GDP growth was reported at 6.4 percent at the end of 2019, it contracted to 0.2 percent after the first quarter of 2020 and continued to contract as the pandemic escalated. Towards the end of the third quarter, the GDP growth was at -11.5 percent, slowly picking itself up from the second-quarter dip of -16.9 percent. As a result, POs suffered financially in 2020. Major international and national funding sources diverted their focus to meeting community needs. Even corporate foundations did not have equal access to funds or local support as some businesses floundered and some boomed. Social enterprises, especially those that operate training centers, implement international exchange programs, or export products, were adversely affected. POs with invested funds suffered declines in investment incomes as the Philippine economy declined drastically.

VI. Socio-Cultural Environment

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

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| Score: 4.5 |
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The concept of "bayanihan" or mutual assistance is a deeply rooted tradition in the Philippines. The idea of neighbors helping each other is commonly practiced in most communities. There is also a long history of community organizing that is rooted in the desire of people in the community to work together in solving their problems, as well as in making the government accountable to them for the delivery of basic services. Living in a Catholic country, Filipinos in general, are used to giving money to the church.

There is a very healthy amount of public contributions to campaigns for contributions to disaster victims. As expected, this was demonstrated during the COVID-19 pandemic when individuals, families, groups, and temporary coalitions of POs banded and provided food to urban poor communities, funded livelihood opportunities, and other efforts that helped farmers and indigenous peoples consolidate, market, and distribute their produce. Institutional philanthropy is widespread.

Although the amount of foreign aid to the Philippines has declined considerably, after the country regained freedom from authoritarianism, there are still a good amount of institutional grants to the

government as well as to private voluntary organizations and nonprofits. The work of volunteers, nonprofits, and other charitable, social, and civic organizations is prevalent in the country. There is a vast network of POs working together in aiding the government to deliver basic services to the poor and marginalized, particularly in areas that are not commonly reached by government.

Corporate philanthropy is popular among private companies and is encouraged by the government. There are networks of companies that facilitate the practice of philanthropy, which makes it easier for government and POs to work with them. However, individual giving significantly benefits more faith-based organizations than other POs. Additionally, the EON Group conducts the biennial Philippine Trust Index (PTI) research—the results of a 2021 quick pulse survey on the public’s trust in POs show “an improvement over the 2019 PTI result in terms of awareness for both types of organizations (NGOs and foundations)” and that “high awareness translates to high trust” (EON Group, 2021). One of the report insights is that “The tremendous impact of Covid-19 on livelihood has increased the visibility of POs as providers of support to those in need. As such, accountability and standards to which the public hold NGOs may very well have increased in tandem” (EON Group, 2021).

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 practice of philanthropy in the Philippines is well-established on the institutional delivery side. There is a wide range of institutions performing philanthropic work at a very professional level and there is a healthy enabling environment as well as a cultural and historical framework for this practice. There is also a network of philanthropic organizations that facilitate the improvement and efficiency in the delivery of services to the poor and marginalized groups in the country. These networks also serve to both assist the government in policing its members while also lobbying the government to protect their interests. The network of corporate foundations is doing a lot to encourage greater philanthropy from private companies while also aiding in the professionalization of this biggest segment of philanthropic groups in the country. Much of the philanthropic work is generally performed by private companies, civic groups (such as Rotary Clubs, Lions Clubs), church organizations and development non-governmental organizations (NGOs). The first three are able to survive on their own because they have their own sources of funds. Among these, the development NGOs perform the most intensive and far-reaching work in the countryside and reach areas where the government is not present. However, they are also the most unstable because they are dependent on grants and subsidies from public, private, and international sources to sustain their work.

The rules for philanthropic giving are well established but the incentives for individual and corporate philanthropy are rather limited. This is because there is still a large percentage of tax leakage in the country and the government is hard-pressed to constantly increase tax collections to manage the budget deficit. The BIR is also notorious for being a corrupt and inefficient revenue agency, which explains to a large extent the poor tax collection performance of the government. As such, the government is also wary about increasing incentives for philanthropy, fearing that these may be abused because of the weak regulatory capacity of its institutions. In general, it is expected that

philanthropic work in the Philippines will continue to thrive, but its growth will most probably be modest owing to the lack of better and more attractive government incentives.

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

1. Increasing state harassment of POs, particularly human rights organizations and advocacy groups, and killings of left-wing political activists, environmental activists, community leaders, Indigenous peoples' leaders, journalists, lawyers, and others (Human Rights Watch, 2021). The government's campaign of retaliation has harassed media companies through politically motivated prosecutions and other legal actions, resulting in the shutdown of the country's largest television network, ABS-CBN. A court in Manila convicted news website Rappler CEO Maria Ressa of cyber libel.
2. Due to the pandemic, the Philippine economy posted a –9.5 percent contraction for the full year of 2020, according to the Philippine Statistics Authority.
3. In 2020, the Taal Volcano eruption affected almost 850,000 people and displaced more than 500,000 people. The COVID-19 pandemic hit the country in March and by the end of the year, there were 474,000 confirmed cases and 9,200 deaths. The Masbate 6.6 magnitude earthquake displaced 6,500 people in the province. Finally, the three most destructive typhoons in 2020—Typhoon Molave (Quinta), Super Typhoon Goni (Rolly), and Typhoon Vamco (Ulysses)—affected 9.3 million Filipinos, severely damaged Region 5 (the Bicol Region), and caused floods in metropolitan Manila and Region 2 (Cagayan Valley).

Future development trends in the philanthropic landscape

The emergence of a few community foundations in the provinces can encourage the flourishing of local philanthropy, particularly in areas of the country that are experiencing economic growth. Local foundations could be established in order to channel increasing local wealth to poor local communities in order for such work to be more efficient and customized. Diaspora giving can improve in the coming years as efforts to tap charitable giving from Filipinos living overseas become more effective. The models used to tap this source must mature and prove to be more effective in channeling surplus funds of Filipinos living overseas. The growth of the microfinance sector can result in more Microfinance Institutions (MFIs) going into charitable work for their clients as their businesses become more successful. Several of the big MFIs are already providing value-added services such as educational scholarships, health services, and other basic services both as an expression of their corporate social responsibility and as a way of maintaining the loyalty of their poor clients. The expanding economic cooperation among ASEAN countries can result in greater cooperation on philanthropic work among these countries, especially as trade continues to grow among them.

Three key recommendations to improve the environment for philanthropy

- Increase percentage of tax deductibility for charitable giving by individuals and corporations. A higher level of tax deductibility can encourage greater giving. However, this will take some time because of government's reliance on tax collection to improve its budget position. In the short-term, government can provide wage support to employees of POs.

- Study the feasibility of using new financial tools or promoting professional practices like impact investment. Digitalization of locally designed capacity building modules has begun; more support is required to populate online platforms with courses on social development, social innovation, and financial inclusion in the Philippine context. Advocate for Service/Business Continuity Planning to POs and social enterprises. The pandemic has reminded nonprofit sector to develop sustainability plans for their operations.
- Encourage volunteer effort, particularly among employees of private companies, and advocate to POs to actively and programmatically recruit, supervise, and retain volunteers. Personal time provided by skilled individuals to local communities or underprivileged groups and POs could be more valuable than money.

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 nonprofit sector and philanthropy played a major voluntary role in COVID-19 pandemic relief and response. The 120 philanthropic organizations with the strongest capacities surveyed were coordinating with national government and other nonprofit organizations and providing information to communities, while the weakest were providing food relief and cash and mobilizing funds and volunteers. However, many other POs and volunteer groups banded to provide food, board, or lodging to indigent individuals and urban poor communities and to donate and deliver protective personnel equipment (PPEs) to public secondary- and tertiary-level hospitals, select rural health units, and penitentiaries nationwide. Some organizations organized online learning sessions, provided psychosocial support to frontline workers, and hosted conversations on mental health, wellbeing, and inner resilience and, while others helped disseminate risk communication materials via social media and SMS blasts. Surveys were conducted to assess the impact of the pandemic on households, communities, social enterprises, and other philanthropic organizations.

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

Many organizations, especially in the National Capital Region (around metropolitan Manila), reached out to small-scale and family farmers and indigenous people's groups around Luzon, consolidated their produce in locational hubs, and helped market the produce directly to consumers and households through online platforms or neighborhood networks. This farm-to-table approach helped consumers minimize going to large public places like markets and groceries. A number of social enterprises have started to venture into COVID-19-related enterprises, like the production of face masks or incorporating the use of indigenous materials and design into such products. Digital marketing, doing business online, working from home, and online forums, meetings, and webinars helped philanthropic organizations adapt to the limitations posed by the COVID-19 pandemic.

Impact of COVID-19 on the philanthropic environment

POs assessed that the COVID-19 pandemic negatively affected their partner communities, specifically noting a drop in income, work, food, and mobility. However, they also believe that they

were as affected by the pandemic as the communities they serve. The pandemic definitely impacted the nonprofit sector's financial viability as discussed above.

The ZEP-UNDP COVID PULSE PH survey, commissioned by the Zero Extreme Philippines Poverty 2030 (ZEP PH 2030) coalition and United Nations Development Programme (UNDP) Philippines, was conducted in two phases in metropolitan Manila and Cebu in 2020. The survey confirmed that the COVID-19 pandemic worsened the poverty situation in the country.

More than eight out of every ten respondents living on the poverty line—with monthly incomes below USD 200 and with temporary or informal jobs—experienced decreased income during the enhanced community quarantine (ECQ), and at least two of ten respondents completely lost their source of income. When the ECQ was lifted, almost 59 percent reported that their income situation worsened. More than half of the households experienced some form of food insecurity, and almost one-third said that at least one child in their family could not attend school in 2020 primarily due to lack of access to technology.

On a positive note, almost all households received at least one form of support from the government, POs, or other sectors, like grants from the Social Amelioration Program (SAP), other cash, or in-kind relief. To make ends meet, more than two-thirds of respondents coped by borrowing money, eating cheaper food or eating less, selling assets, and relying on personal support systems and informal sources to bridge financing. With their present skills in selling goods and preparing foods, respondents stated that they hope to have capital to start a new business in the new normal.

As regards the impact of the pandemic on POs, 70 percent of POs and PO networks said their programs and services were affected because there were less funding opportunities in 2020. Projected income decreased because training programs, consultancies, and projects were canceled or postponed. Production or provision of services of social enterprises either slowed down or had to stop. POs that had invested funds suffered declines in investment income as the Philippine economy plunged, posting a -9.5 percent growth rate for the full year of 2020.

The above findings were reported in the Survey on the Effects of the COVID-19 Pandemic and the Implementation of the Government-Mandated Community Quarantine on CSOs conducted by the Caucus of Development NGO Networks (CODE-NGO) and the Partnership of Philippine Support Service Agencies (PHILSSA) in February 2021.

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

As Filipinos wait for the government to roll out its three-year national vaccination program, the philanthropic environment remains vigilant and conservative. Annual and strategic plans will be reviewed and adjusted considering more limited revenue streams.

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