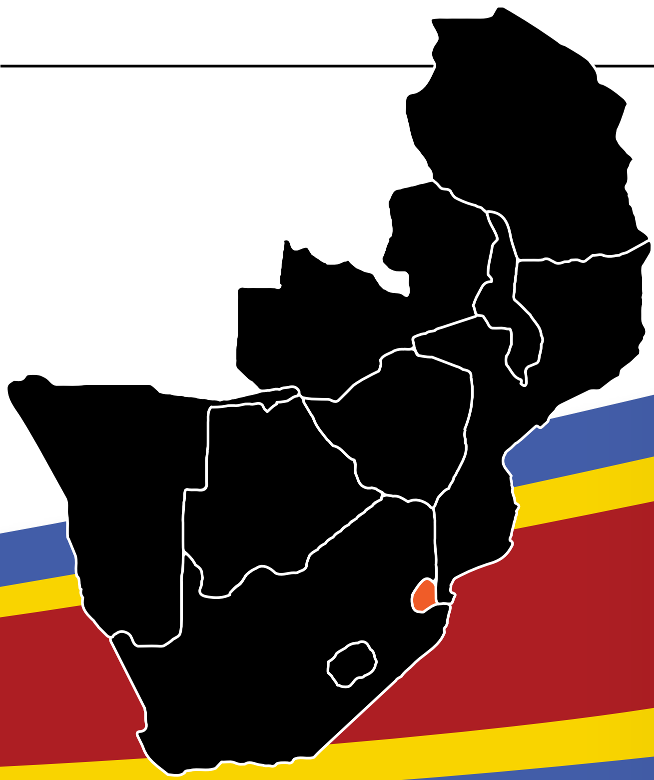
Understanding the Legal Framework for Philanthropy in Southern Africa



eSwatini Report

Qand'elihle G. Simelane, PhD

January 2023

ACKNOWLEDGEMENTS

SIVIO Institute extends its gratitude to Qand'elihle G. Simelane, PhD for conducting this study. We are also grateful to the philanthropy organizations in eSwatini that took part in the survey. The outcome of the study was made possible because of their willingness to share their experiences and perceptions on their operating context.

This study was made possible through funding provided by WINGS and the European Union.

Co-funded by the European Union

EXECUTIVE SUMMARY

Giving is intrinsic to African culture and in African tradition, sharing is a state of mind. In the African tradition, over the years, success was measured not by individual accumulation but by generosity. Today many philanthropic organisations exist and continue with the tradition of giving as it was from time immemorial. We can safely say that the history of philanthropy dates back to precolonial history eSwatini as giving is part of African and ultimately, Swati culture. The big report of which this is part focuses on the legal frameworks in existence in SADC countries in general while this paper focuses on the Nation of eSwatini.

This study seeks to influence policies that enhance and promote philanthropy by identifying and examining the existing legal frameworks that either inhibit or promote philanthropy and its practices in the region. The research seeks among other things to:

- identify and assess how existing laws and public policies impact practices of giving
- raise awareness of the challenges confronting the philanthropy sector
- influence legal and policy reforms for an improved philanthropy environment

The research used primary and secondary data where for the secondary data, a desktop review of laws and policies that affect philanthropy in eSwatini was done. Primary data was done by deploying an online survey of seventeen (17) organisations. Both primary and secondary data was framed around the legal frameworks pertaining to the following six areas:

- ease of registration
- compliance processes and procedures
- tax regimes
- incentives to promote the growth and role of philanthropy in national development
- movement of financial resources within and across borders and support for advocacy work

The desktop study of the laws govern registration of Non-Governmental Organisations in eSwatini shows that there are laws that support the registration and protection of the operations of NGOs in eSwatini. The Companies Act and the Protection on Names, Uniforms and Badges Act are two such laws. The registration process whose details are given on the government web portal seems to be a straightforward affair that is easy to follow.

The state does not seem to exert much force on CSOs in terms of remaining registered but they are expected to pay taxes on those activities that are non-exempt and to apply for tax exemption where they qualify. Companies funded by the government are expected to submit audited reports annually.

When it comes to taxation laws, there are many enabling laws designed to benefit philanthropic organisations. The major problem cited was that there is an increase in tax fraud by organisations and individuals who try to take advantage of these laws to evade tax payment. Some of them masquerade as charitable organisations while others falsely claim that they made donations to charitable organisations so that they can get tax relief. There are more thorough checks being made now to ensure that tax fraud is reduced to a minimum.

When it comes to resource mobilisation, there are a lot of laws in place that protect genuine organisations from money launderers and sponsors of terrorist attacks. Money Laundering and Financing of Terrorism (Prevention) Act, and the National Clearing and Settlement Systems Act of 2011 are examples of such laws. These laws are strict and seem to slow down the movement of money, especially across the border into the country. However, for those organisations that tick all boxes, the seemingly difficult process is easy for them as they have provisions in the laws to protect them and support them as they move money needed for their philanthropic work.

Despite the availability of such a framework of laws and policies, the respondents in the survey seem to be unaware of the laws, and in cases when they are aware they don't seem to be aware of the number of laws or the extent to which they can take advantage of them.

Of the surveyed organisations, 70.59%

of which were charitable organisation, all were registered. No religious organisation participated in this study.

Major funders were international private funders and private donors while corporate social responsibility and private African Philanthropic organisations were among the minor funders.

Although all the organisations were registered, they all seemed to disagree on the number of documents required for registration. Most of them (14) cited a maximum of 6 documents while the remainder thought there were more than 6 documents required for registration.

When it came to information pertaining to the registration of NGOs, most of the respondents (11) did not know if there were any laws governing the registration of philanthropic organisations or did not know of the number of such laws.

Most of the respondents (10) found the registration process easy although a good number of them (7) felt that putting together the documents required for registration was difficult for them.

In general, when it came to knowledge of laws that govern the registration, compliance and taxation regime, respondents seemed to be ignorant of existence of laws or what the laws said. The same seemed to be the case when it came to laws that govern movement of money into the country and around the country.

> Despite the availability of such a framework of laws and policies, the respondents in the survey seem to be unaware of the laws, and in cases when they are aware they don't seem to be aware of the number of laws or the extent to which they can take advantage of them.

It is recommended that there be capacity building and training workshops on legislation that affect philanthropy-focused organisations. Legislation also need to be made more dynamic and sensitive to the CSO space as well as provide more incentives for those who are in the giving and philanthropy space. Private Philanthropy Foundations and Corporates need to come on board more to fulfil their Corporate Social Responsibility in eSwatini.

Table of Contents

List of Figures

List of Tables

Acronyms

AML	Anti-Money Laundering
CEO	Chief Executive Officer
CFT	Combating the Financing of Terrorism
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
ERS	eSwatini Revenue Service
EU	European Union
FATF	Financial Action Task Force
FSEJ	Foundation for Socio-Economic Justice
MLFTP	Money Laundering and Financing of Terrorism (Prevention)
NCSS	National Clearing and Settlement Systems
NGO	Non-Governmental Organisation
NPO	Non-Profit Organisation
PAYE	Pay As You Earn
SACRO	Swaziland Association for Crime Prevention and Rehabilitation of Offenders
SADC	Southern African Development Community
STEM	Science Technology Engineering and Mathematics
SWIPSS	Swaziland Interbank Payment and Settlement System
USAID	United States Agency for International Development
VAT	Value Added Tax

1.0 INTRODUCTION

1.1 Background to the study

Giving is, opined Ighobor (2013), intrinsic to African culture, where he reckons, personal welfare as inextricably intertwined. Mpansu (1986) reckons that, in African tradition, sharing is a state of mind, an attitude; it is an element of culture - a practice, and an institution. Traditional chiefs are allowed to accumulate wealth, often in the form of gifts, in order to distribute it back to the community as providers (Chabal, 2009) and their power is therefore built on the basis of reciprocity and the tradition of sharing (Mpansu, 1986).

In African tradition, success was measured not by individual accumulation but by generosity (Woldeyes, 2018). Sharing as generosity amounts to a moral obligation on all in African society; all can claim the right of reciprocal giving and receiving (Mpansu, 1986). Deriving from African tradition, sharing takes place today in the African churches (Mpansu, 1986). Reflecting the diverse forms of philanthropy existing on the continent, Africans give money, time and resources like clothing and food items whose cumulative value, according to Ajayi (2016), is unknown. Therefore, the history of philanthropy dates back to precolonial history eSwatini as giving is part of African and ultimately, Swati culture.

The role that the voluntary sector plays in building a strong, caring and well-functioning society as well as in contributing to employment, welfare and economic growth is recognised as significant in many countries (OECD, 2009). Tax incentives or tax relief are therefore offered to those organizations (and their donors) that typically constitute the philanthropic sector.

1.2 Purpose and objective of the study

The study seeks to influence policies that enhance and promote philanthropy by identifying and examining the existing legal frameworks that either inhibit or promote philanthropy and its practices in the region.

Specifically, the regional study of which this eSwatini country report is part, seeks to:

- Identify and assess how existing laws and public policies impact practices of giving
- Raise awareness of the challenges confronting the philanthropy sector
- Influence legal and policy reforms for an improved philanthropy environment

1.3 Research methodology

1.3.1 Data collection process

The study used the mixed methods approach, employing both quantitative and qualitative data collection methods. A questionnaire was developed, and quantitative data was collected using the online survey tool, Survey Monkey, targeting philanthropy-focused organisations in the Kingdom of eSwatini. Whereas the study targeted a minimum of 15 respondent organisations, the survey elicited responses from 17 organisations. These responses form the basis of this report.

Qualitative data was collected through desk review of laws and policies that enhance and promote philanthropy to inform assessment of the existing legal framework with regards to its impact on promoting philanthropy and its practices in the country. Details on these laws are presented in Annexure 2, indicating their relevance to philanthropy and providing links to online sources of the respective legislation. The research examined laws affecting:

(i) ease of registration

(ii) compliance processes and procedures

(iii) tax regimes

(iv) incentives to promote the growth and role of philanthropy in national development

(v) movement of financial resources within and across borders and support for advocacy work.

2.0 LEGISLATIVE ENVIRONMENT – REVIEW OF CURRENT LEGAL FRAMEWORK INFLUENCING PHILANTHROPY ESWATINI

2.1 Ease of registration

Non-governmental organisations (NGOs) and thereby philanthropy focussed organisations are registered under the Companies Act No. 8 of 2009. The act seeks to provide for the constitution, registration, management, administration and winding up of companies and other associations. The detailed process and requirements are described on the government web portal, and the detailed requirements suggest a simple process reflecting relative ease of registration. The names of the NGOs are protected[1] through the Protection of Names, Uniforms and Badges Act No. 10 of 1969.

2.2 State oversight and compliance to remain registered

The state exerts no specific legal provisioned oversight for compliance of CSOs to remain registered. CSOs are, however, required to pay tax on non-exempt activities and apply for annual tax exemption from the eSwatini Revenue Service (ERS) as provided in the Value Added Tax Act of 2011. Given their registration under the Companies Act No. 8 of 2009, and the source of funding, CSOs funded by the government for instance may have to submit audited statements/ accounts to the Registrar of Companies with Form J.

2.3 Taxation regime and giving

The OECD (2009) report recognised the fact of abuse of charities which is becoming more organised and more sophisticated. Consequently, the report

---

1 //www.commonwealthofnations.org/sectors-swaziland/civil_society/#:~:text=Registration%20of%20NGOs%20is%20the,by%20the%20Ministry%20of%20Justice.

highlights tax evasion and tax fraud through the abuse of charities, with variable impact in many countries. It is a serious and increasing risk. The OECD report (OECD, 2009) characterises the abuse of charities as occurring:

> “when the sanctioned government status of a charitable organization and its entitlements towards tax relief or tax benefits are wilfully abused either by the charitable organization as a perpetrator of tax fraud, by taxpayers and donors, or third parties, such as fraudsters who pose as charitable organizations or tax return preparers who falsify tax returns to defraud governments using relief provisions for taxpayers who make charitable donations.” (p.7)

A snapshot of tax related laws that may impact on philanthropy and philanthropic activities is presented in Table 1, and include the Income Tax Order 1975; Value Added Tax Act, 2011 as well as the Customs and Excise Act 1971. The Income Tax Order 1975 defines exempt organisations and makes consideration for contributions, donations, grants or gift made by any person and regulates payment and recovery of tax including payments of employees’ tax (in the Second Schedule).

Table 1: Laws related to taxation and philanthropy

Law	Relevance to philanthropy
Value Added Tax Act, 2011	An act to provide for the imposition of value added tax. Supply of goods and services in a charity arrangement is exempt if the Commissioner General is satisfied that the body, organisation making the arrangement is not masquerading as a charity organisation for purposes of tax evasion.
Second Schedule of the VAT Act, 2011 was amended via Government Gazette	Section 24(4) of the Value Added Tax Act of 2011 deals with the supply of goods or services categorized as zero-rated supply and specified in the Second Schedule. These include school text books; prescription drugs and medicines; agricultural inputs and various agricultural products.
Income Tax Order 1975	The law defines exempt organisations as, including amongst others ecclesiastical, charitable, or educational institution of a public character.
Customs and Excise Act 1971	An Act to provide for the levying of customs, excise and sales duties and a surcharge, the prohibition and control of the import, export or manufacture of certain goods and for incidental matters.

The Exchange Control Order, 1974 (Kings Order-in-Council No. 40 of 1974) exempts charitable organisations from income tax deductions but the organisation or associations have to apply for the exemption and meet the requirements. The Value Added Tax Act of 2011 does provide for tax exemption if the Commissioner General is satisfied that the body, organisation making the arrangement is not masquerading as a charity organisation for purposes of tax evasion. This can be seen as an enabler for philanthropy.

2.4 Resource mobilisation and movement of funds

Legislation in eSwatini that would impact upon resource mobilisation includes the Money Laundering and Financing of Terrorism (Prevention) Act, 2011 which seeks to criminalise money laundering and suppress the financing of terrorism; to establish a financial intelligence unit; to provide for the forfeiture of ill-gotten property and for matters incidental thereto. The National Clearing and Settlement Systems Act of 2011 on the other hand seeks to provide for the recognition, operation and supervision of systems for the clearing of transfer instruction between financial institutions and for matters incidental thereto.

Other relevant documents are the Exchange Control Order, 1974; Swaziland Financial Institutions Act 6 of 2005; The National Clearing and Settlement Systems (NCSS)- Act of 2011; Swaziland Interbank Payment and Settlement System (SWIPSS); Statutes of Swaziland all govern movement of funds in and beyond eSwatini.

The milieu of laws and procedures may be expected to slow down movement of funds through filtering bureaucracies/verification systems to curb money laundering. It may also raise concerns that they completely inhibit the flow of financial resources. Proper documentation that 'ticks boxes' however ensures that concerns about the flow of funds remain imaginary.

2.5 Incentives to promote giving as part of national development

There are no direct laws that promote giving in eSwatini though some efforts are being made through strategy and planning documents. Government of eSwatini (2019)'s National Development Plan (2019/20-2021-22) is the document pertinent to philanthropy. It seeks to, amongst others, improve the regulatory framework across industries as well as increasing the speeds of registration, licensing compliance and issuing property; optimise tax structure, rates and incentives; establishment of one-stop-shops for licensing and registrations. This is important in a country where NGOs and philanthropic organisations are registered within the Companies Act No. 8 of 2009. Implementation and consequent impact of the national plan on philanthropy however needs to be assessed ahead of the next planning cycle.

2.6 Supporting governance and human rights-focused work

Around the world, governments are ceased with the fight against financial crime as an ongoing priority. The financial services sector can be a target for money launderers and for those seeking resources for terrorism acts or for ways to process funds to accomplices and is, therefore, potentially at risk of being misused for money laundering and the financing of terrorism. There are three pieces of legislation relevant to this theme:

> The Constitution of Swaziland, 2005 which is the supreme law of the land, hence, any law which is inconsistent with this Constitution shall, to the extent of the inconsistency, be of no legal effect and gets treated as if it does not exist.
>
> The Suppression of Terrorism (Amendment) Act No. 11 of 2017 seeks to provide for the judicial review of an order declaring certain entities to be specified and to provide for incidental matters.
>
> The Public Order Act seeks to promote and protect public order, public health, public safety and public morals; to give effect to the fundamental rights embodied in the Constitution of the Kingdom of Swaziland.

The Money Laundering and Financing of Terrorism (Prevention) Guideline (AML/CFT) 2016 cites the FATF Recommendation 34 essential in applying AML/CFT measures for detecting and reporting suspicious and unusual transactions. The Money Laundering and Financing of Terrorism (Prevention) (MLFTP) Act, 2011 further provides for standards, processes, policies and procedures which should be adopted by accountable institutions to deter and detect money laundering and terrorist financing.

Whereas, the reality of existence of these legislation suggests barriers to resource flows for philanthropy, however, organisations with regular sources may not experience inhibitions.

3.0 KEY FINDINGS FROM THE SURVEY

The findings presented in the report are based on complete responses from 17 organisations in the Kingdom of eSwatini.

3.1 Background of organisations surveyed

3.1.1 Types of organisations

The breakdown of the different types of respondent organisations is presented in Figure 1, indicating that most of these (n=12, 70.59%) were charity organisations. Whereas there were similar numbers of re-granting and community foundations. No religious organisation participated in the survey (Figure 1).

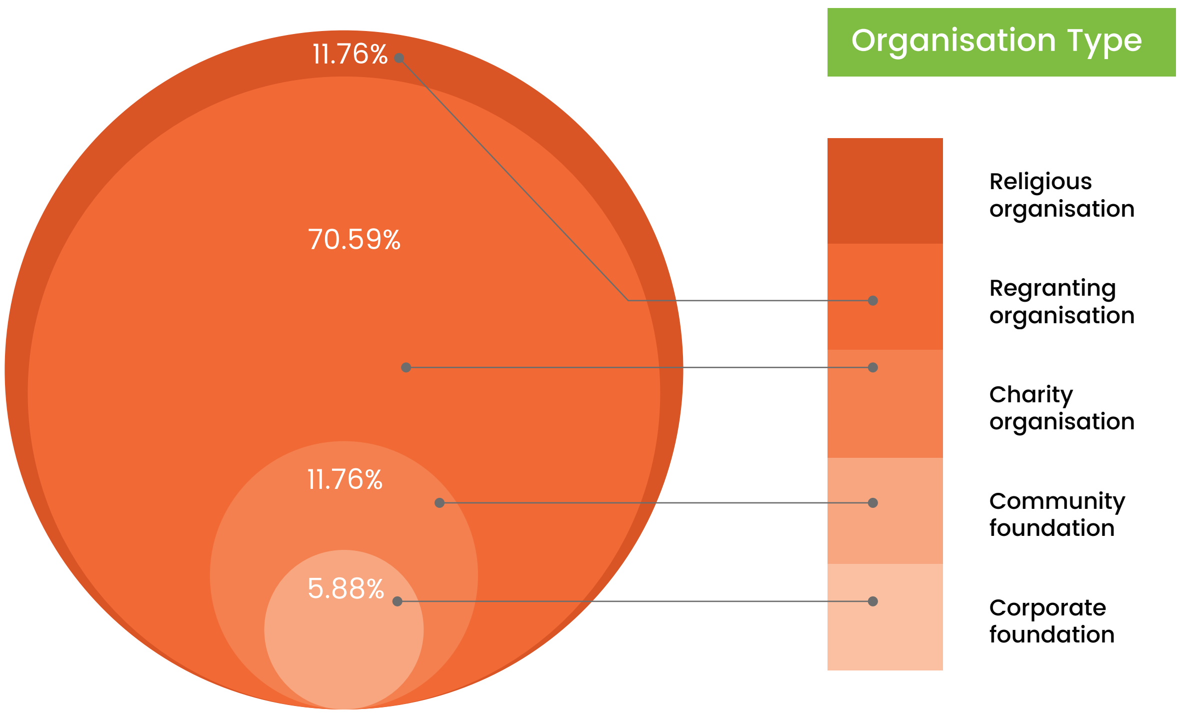


Figure 1: Type of respondent organisations

Most of the respondent organisations (>40%) derive funding from private sources (private international philanthropy foundations, individual donations and other sources) with limited funding (<20%) from private African Philanthropy Foundations and corporate social responsibility (CSR, Figure 1).

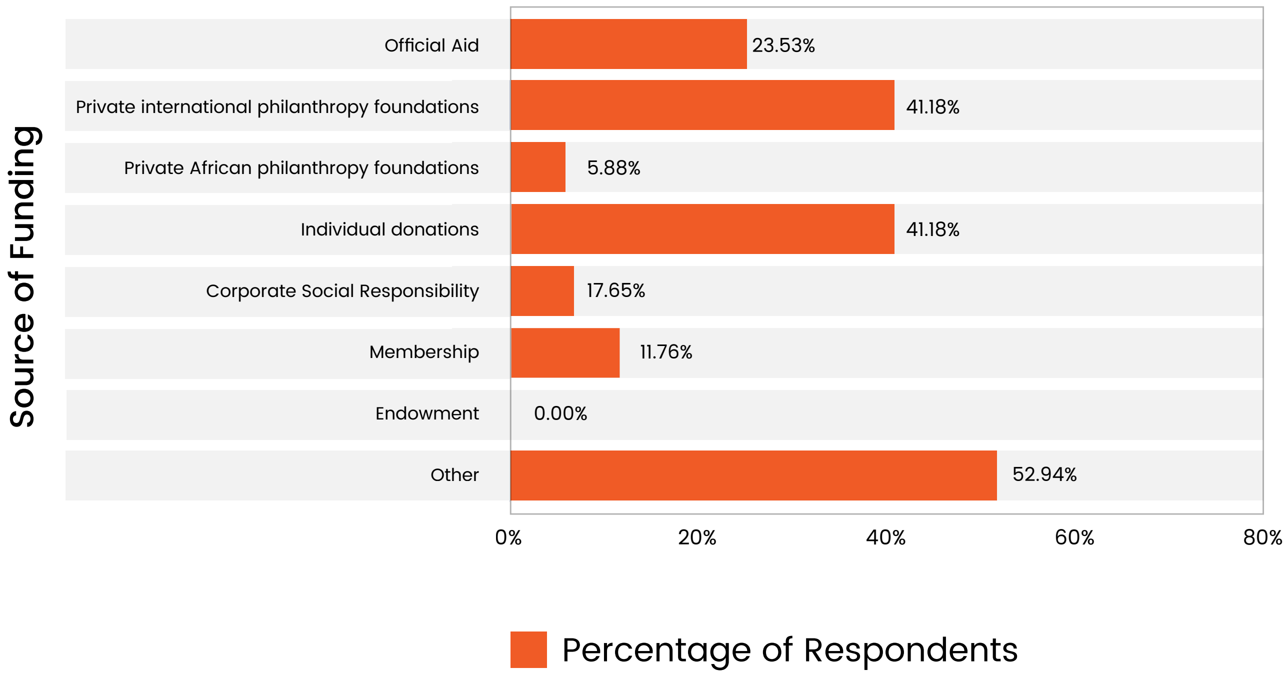


Figure 2: Distribution of respondent organisations by source of funding

3.1.2 Role of respondents in organisations

Figure 3 shows that, responding on behalf of the organisations were mostly the Chief Executive Officers (CEOs- n=7, 41.18%) and Program Managers (n=3, 17.65%).

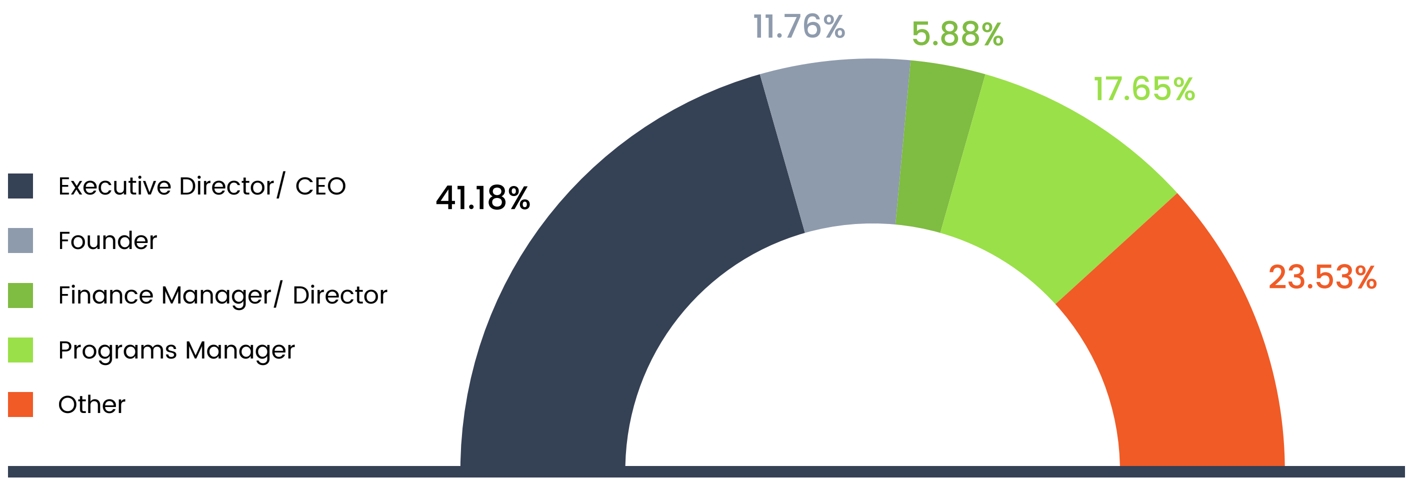


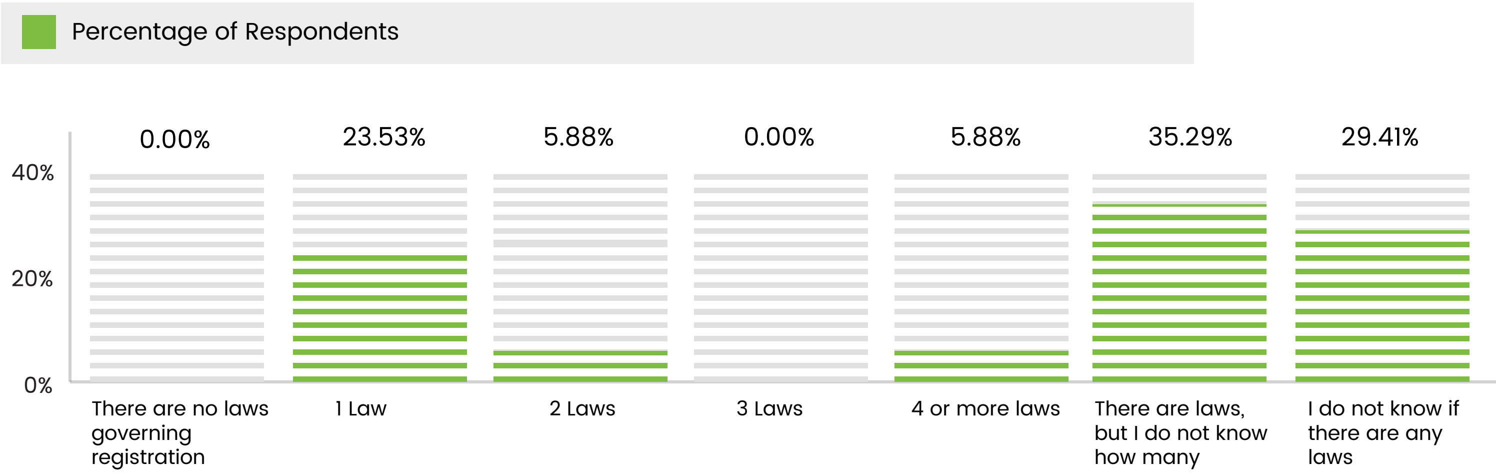
Figure 3: Distribution of respondents by Position held at the organisation

Also participating as respondents were founders (n=2, 11.76%) as well as Finance Manager/Director (n=1, 5.88%).

3.2 Navigation by organisations of registration and compliance processes

All respondent organisations indicated that they were registered, but there were differences in the numbers on documents cited as required for registration. While a few respondents (n=3, 17.64%) cited more than 6 documents, most (n=14, 84.25%) cited a maximum of 6 documents.

Information presented in Figure 4 shows that most of the respondents (n=11, 64.7%) were either not aware of the number of laws or they just did not know if there are any laws that govern the registration of philanthropy organisations.



How many laws govern registration?

Figure 4: Distribution of respondents by awareness of numbers of laws governing registration

Whereas, about a quarter of the respondents thought there was just one law (n=4, 23.53%), Figure 4 shows that a greater number of them were not aware if there are any laws (n=5, 29.41%). Further analysis of the data showed that most of the Executive Directors/ CEOs (n=5, 71.43%) were cautious in their responses, reporting that they did not know the number of laws.

Generally, respondents have found it somewhat easy to very easy with producing the documents required for registration. Most (n=10, 58.82%) find the process to be somewhat easy at worst. The same data, however, does highlight the significant challenges with registration, as 7 (41.17%) respondents reported that producing all the documents required for registration (e.g. application forms, police clearance, etc.) was generally difficult.

Maybe related to the reported challenges, the process is reported by most (n=13, 76.47%) to take over a month whereas the experience of a significant proportion of the respondents (n=8, 47.06%) was less than a month (Figure 5).

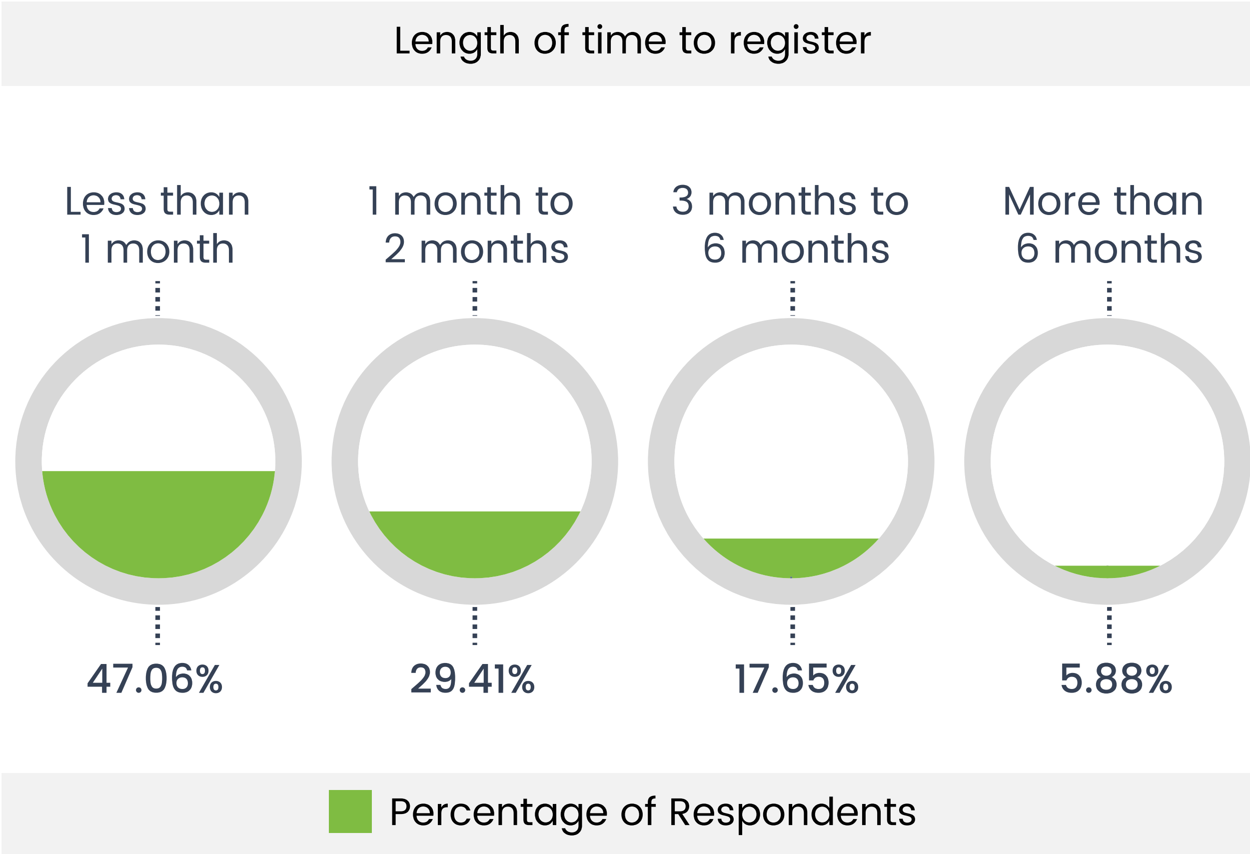


Figure 5: Distribution of respondents according to the length of time reported to register an organisation

Although registration is not free, most respondents (n=10, 58.82%) thought the fee was reasonable, which opinion was shared by most Executive Director/s CEOs (n=5, 71.43%) but not the Program Managers most of whom (n=2, 66.67%) felt that registration was costly (Table 2).

Table 2: Distribution of respondents holding different position at their respective organisations according to their opinion on cost of registration

Position	It is costly		It is a reasonable fee		It is free		Total	
	#	%	#	%	#	%	#	%
Executive Director/ CEO	2	11,76	5	29,41	0	0,00	7	41,18
Finance Manager/Director	0	0,00	1	5,88	0	0,00	1	5,88
Founder	1	5,88	1	5,88	0	0,00	2	11,76
Other (please specify)	2	11,76	2	11,76	0	0,00	4	23,53
Program Manager	2	11,76	1	5,88	0	0,00	3	17,65
Total	7	41,18	10	58,82	0	0,00	17	100,0

The study showed that most respondents (70.59%) were charity organisations, respondents from these organisations were split with regards to the cost of registration. Most of them (n=7, 58.33%) indicated that the fee was reasonable whilst the rest of the respondents from charity organisations (n=5, 41.67%) thought the fee was costly.

Table 3: Distribution of respondents by type of organisation and their opinion on cost of registration for their philanthropy organisation

Type of organisation	It is costly		It is a reasonable fee		It is free	
	#	%	#	%	#	%
Community Foundation	1	5,88	1	5,88	2	11,76
Charity Organisation	5	29,41	7	41,18	12	70,59
Religious Organisation	0	0,00	0	0,00	0	0,00
Corporate Foundation	0	0,00	1	5,88	1	5,88
Regranting Organisation	1	5,88	1	5,88	2	11,76
Total	7	41,18	10	58,82	17	100,0

Whereas none of the respondents suggested that registration was free (Table 3), the perception of the cost of registration is shown to be influenced by the position and type of organisation of the respondent.

3.2.1 Efficiency of the modes of registration

About half the respondents (n=7, 41.18%) indicated that there was an online registration system, and about 1 in 5 (n=3, 17.64%) found it inefficient. The online registration process is clearly unknown to most (n=10, 58.82%) as they declared it to be unavailable (Figure 6). A similar proportion (n=10, 58.82%) were positive about the 'in person' registration suggesting that it was mostly fairly efficient.

Respondents also reported on procedures and processes for registration. The responses are not clear with regards to requirements for the renewal of organisations' registration. However, most of them (n=10, 58.82%) indicated they do not require renewal of registration yet all those who did report the requirement for renewal of registration (n=7) suggested that this renewal was an annual event.

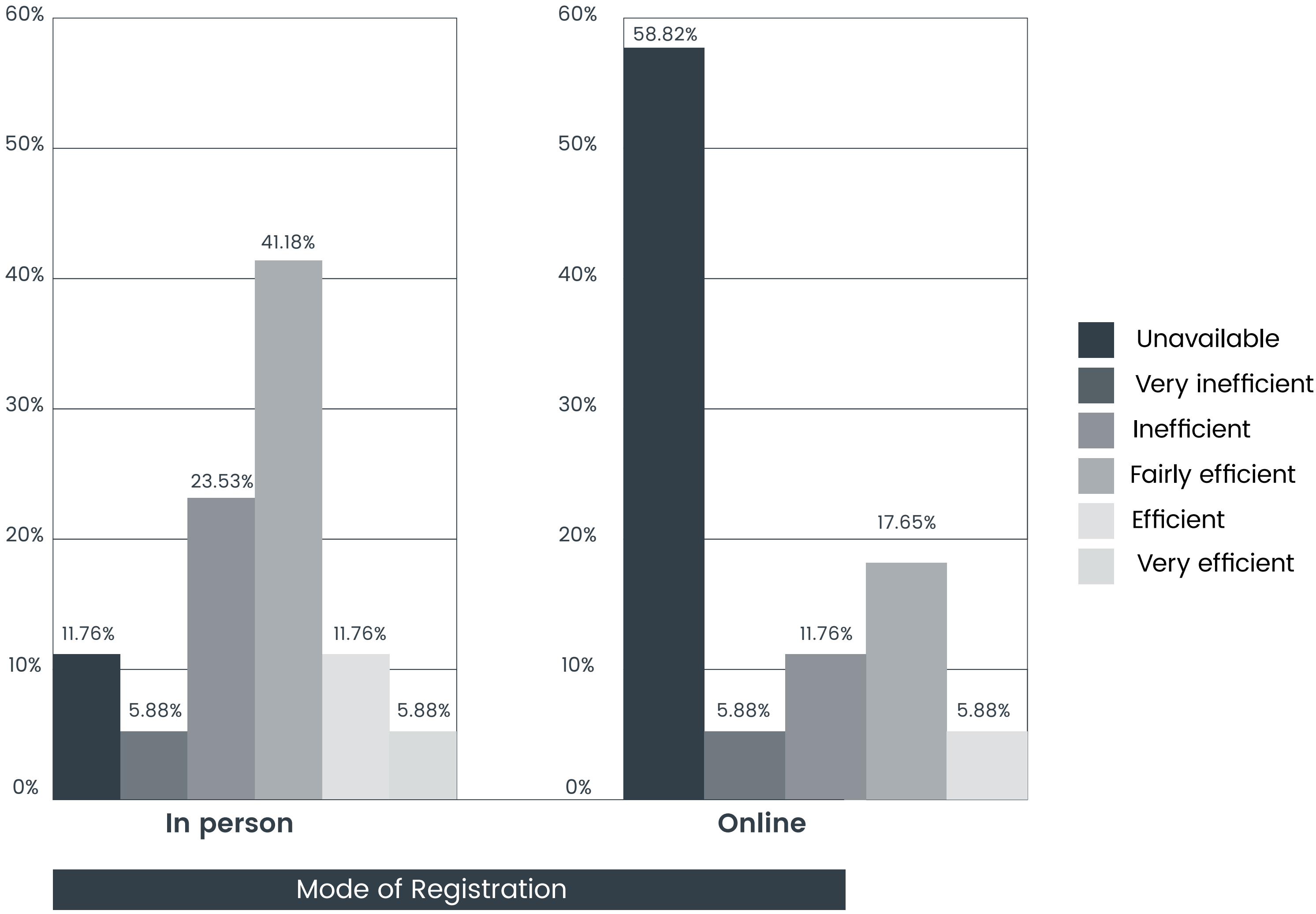


Figure 6: Distribution of respondents according to the rating of the efficiency of the modes of registration

Similarly, responses are not clear with regards to the existence of a regulatory body for philanthropy organisations in the country, which was disputed by most respondents (n=11, 64.71%). Those who reported the existence of such a body were split equally regarding the submission of reports to this body, with some (n=3, 50.0%) affirming this.

3.2.2 Bank requirements to ensure compliance

Figure 7 reflects divergence of responses and a lack of consensus regarding what banks require of philanthropic organisations to ensure compliance.

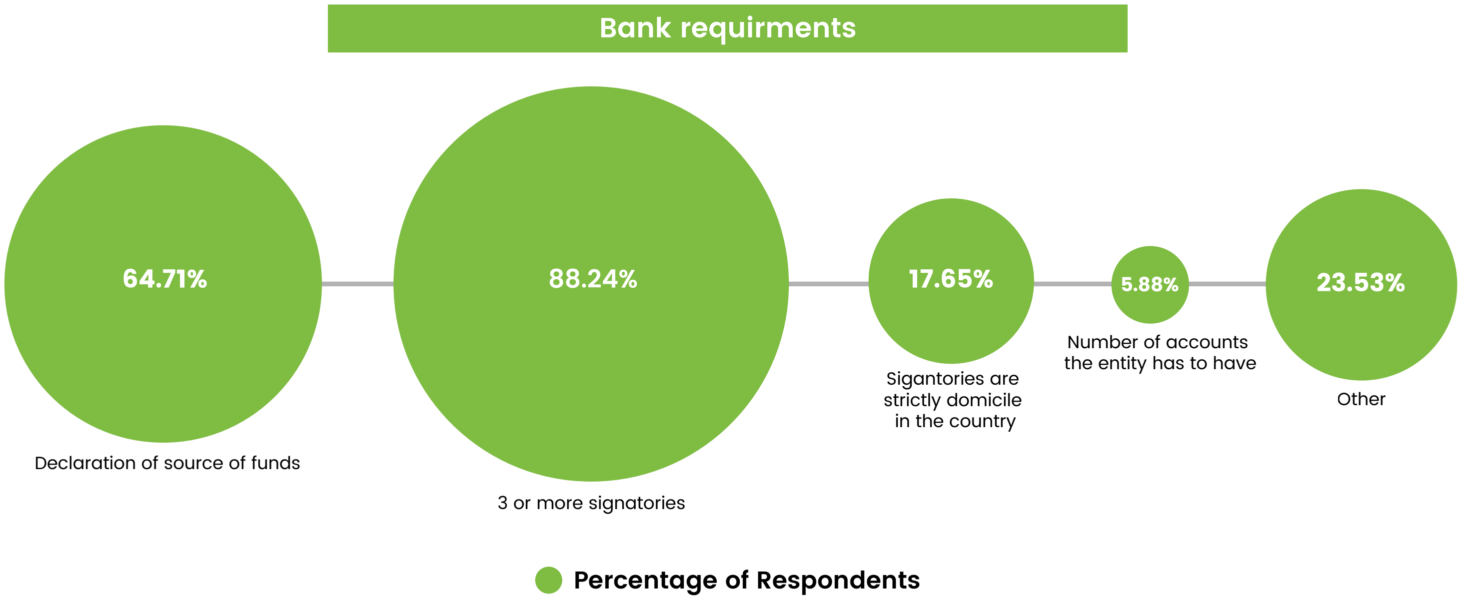


Figure 7: Distribution of respondents according to responses regarding what banks require of philanthropic organisations to ensure compliance

Most respondents highlighted that banks needed a declaration of the source of funds as well as a minimum of 3 signatures, which at least 11% of respondents could not acknowledge (Figure 7).

3.3 Taxation and incentives for giving

Survey data could not yield a clear picture regarding the existence or otherwise of a specific tax code for the philanthropy sector in the country (e. g. exemptions for Non-Profit Organisations- NPOs). About two-thirds of respondents (n=11, 64.71%) were affirmative in the responses, which the rest could not agree with. Generally, the respondents could not give a specific number of tax-related laws governing giving in the country, with about 17.65% (n=3) suggesting that there was only one such law.

Figure 8 shows that at least half the respondents thought philanthropic organisations were exempt from Value Added Tax (VAT), Custom duty, Tax on transfers and income tax. A similar proportion of respondents reported on a rate above 20% for Pay As You Earn (n=9, 52.94%).

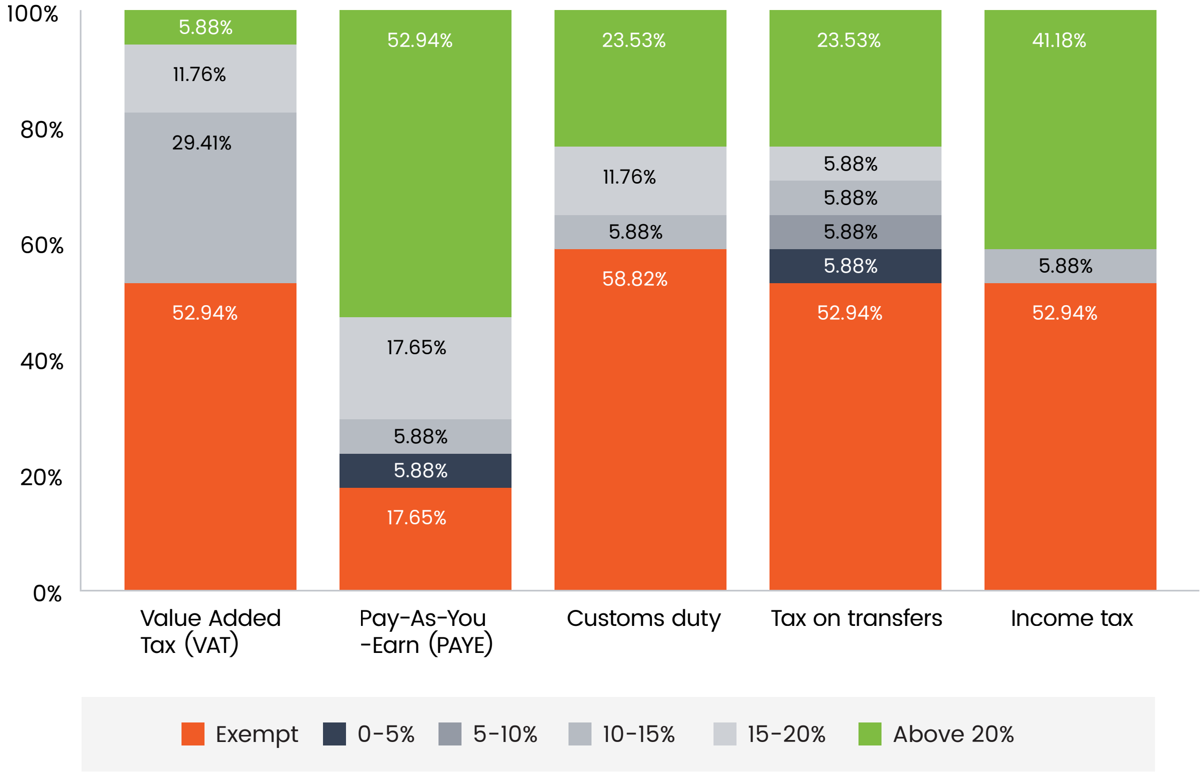


Figure 8: Distribution of respondents according to responses regarding the rate of taxation

With a maximum of 6 respondents to single items, evidence presented in Table 4 suggests a lack of awareness regarding the national tax regime and existing incentives to promote philanthropy in national development.

Table 4: Tax benefits for giving

Tax benefit	Respondents	
	n	%
Tax exemption on donations to a certain limit	4	67%
Tax relief on gross income	3	50%
Deduction on Income Tax	2	33%
Tax exemption on Capital Gains	1	17%

Table 4 shows that the most prominent tax benefit was tax exemption on donations (n=4, 67%) whilst some cited tax relief on gross income (n=3, 50%).

3.4 Giving and wider national development

Survey findings however show that there are divergent views or experiences regarding the existence of a policy on philanthropy and giving practices in the country. Most respondents (n=14, 82.35%) suggested that such a policy does not exist which was disputed by the rest (n=3, 17.65%), all suggesting that provisions in the policy create incentives for giving. There were even more respondents (n=6, 35.29%) suggesting that there was a tax benefit to individuals and corporates giving to philanthropy organisations. This was, nevertheless, disputed by most respondents (n=11, 64.71%).

3.5 Raising and moving monetary resources

3.5.1 Sources of funding

Perception regarding flexibility is shown to be related to the respondents' declared knowledge of laws. Those who acknowledged that there are laws while admitting they did not know the number, were split in their perceptions. Most (n=6, 60%) thought the laws regulating the movement of funds across borders were 'Fairly flexible', yet a significant proportion (n=4, 40%) thought the same laws were 'inflexible'. This may suggest a need for capacity building and training on legislation that affects them as philanthropy-focused organisations.

3.5.2 Laws regulating movement of money within the country

Figure 9 shows the distribution of respondents according to their reported knowledge of laws restricting cross border movement of funds.

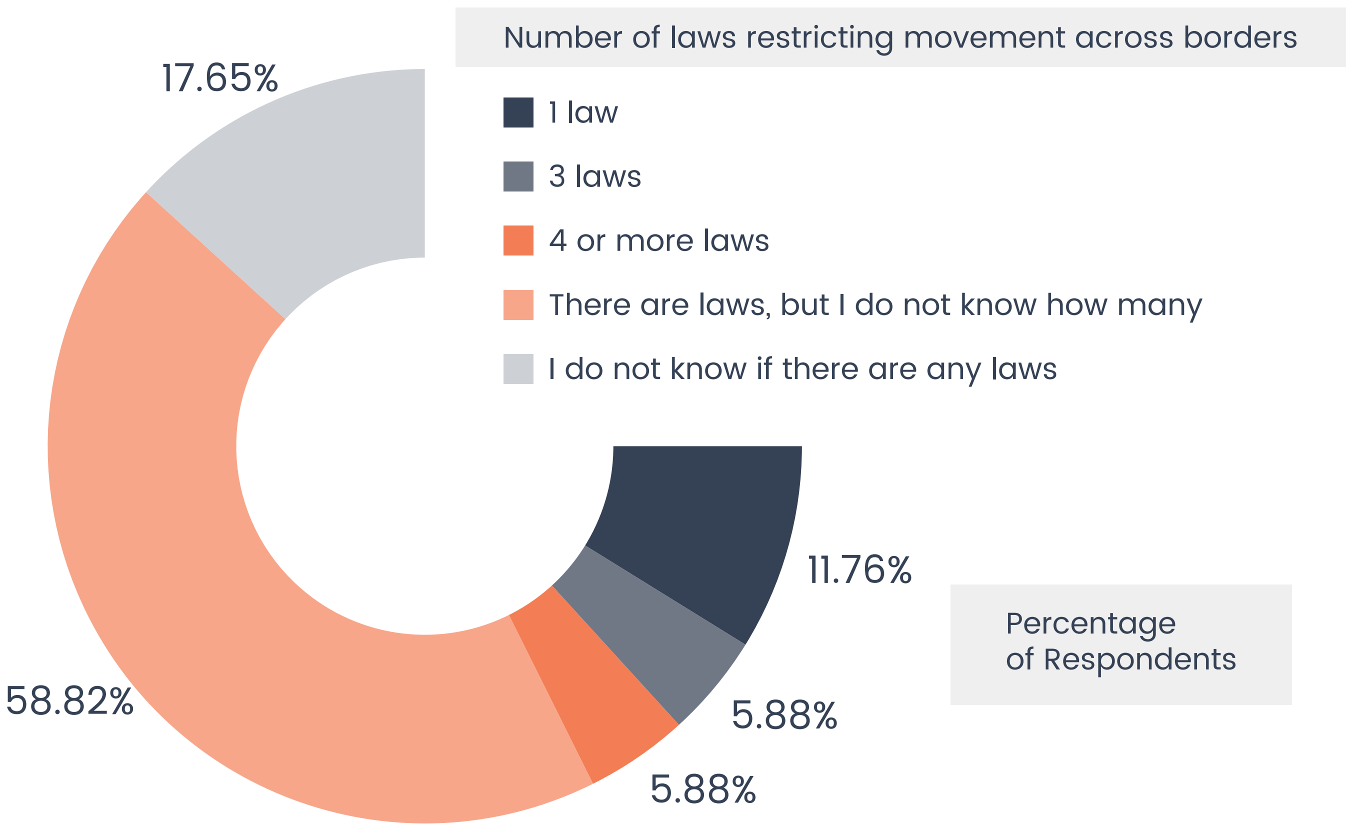


Figure 9: Distribution of respondents by reported knowledge of laws that restrict movement of money across borders

The figure suggests ubiquitous ignorance of the laws hence more than three quarters of the respondents (n=13, 76.47%) reported either a lack of knowledge of the number of laws or the existence of such laws.

3.6 Supporting advocacy-focused work

Figure 10 presents the distribution of respondents according to their knowledge of laws regulating support to and/ or funding advocacy-focused work. The figure reflects shared ignorance of the relevant laws.

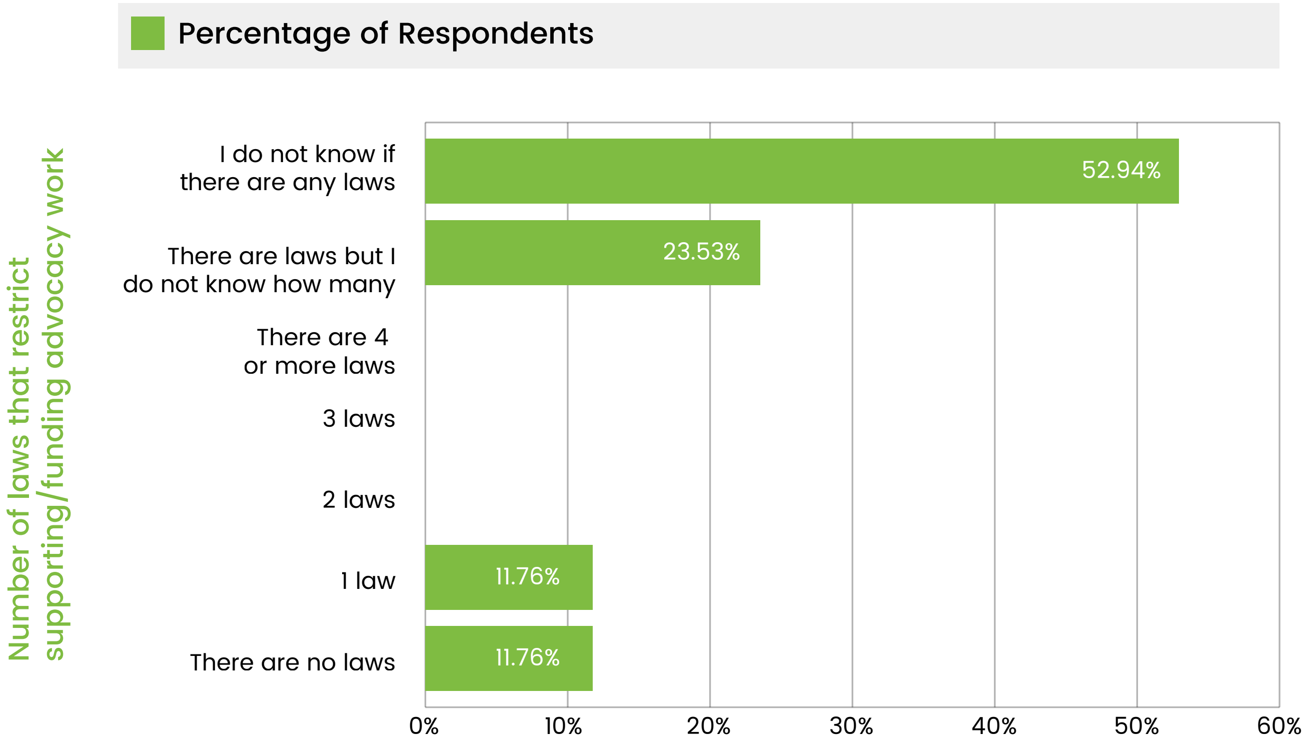


Figure 10: Distribution of respondents by reported knowledge of laws that restrict supporting/funding advocacy-focused work

Thus more than three quarters of the respondents (n=13, 76.47%) reported either a lack of knowledge of the number of laws or the existence of such laws impacting advocacy-focused work.

4.0 CONCLUSIONS

The desktop review and the findings from the survey inform several conclusions:

(i) Perception about registration cost is shown to be influenced by position and type of organisation of the respondent.
(ii) Besides tax exemption as provided, the country's statutes provide no incentives to promote giving as part of national development.
(iii) There is laxity in the enforcement of compliance to processes amongst CSOs, hence, some role players report the lack of compliance procedures.
(iv) The desktop review reveals lack of legislation specific to CSOs and philanthropy focussed organisations in particular.
(v) Most of the philanthropy focused organisations depend on funding from private sources with limited funding from private African Philanthropy Foundations and Corporate Social Responsibility (CSR).

5.0 RECOMMENDATIONS

The findings presented above and the conclusions they inform suggests the following:

(i) A need for capacity building and training on legislation that affect them as philanthropy-focused organisations.

(ii) A sensitisation workshop for CSOs and philanthropy focused organisations in particular, to deal with the question of philanthropy in society; the relevant legislation and impact on philanthropy focused organisations.

(iii) Review of legislation to make it dynamic, responsive to the space of CSOs and provide incentives for giving.

(iv) There is need to enhance the role of private African Philanthropy Foundations and corporate social responsibility (CSR) in supporting philanthropic activities in the country.

REFERENCES

Ajayi, T. (April, 2016). *Philanthropic foundations and African giving culture.* Retrieved from: https://nonprofitquarterly.org/philanthropic-foundations-giving-culture/

Chabal, P. (2009). *Africa: The politics of suffering and smiling.* London: Zed Books.

Government of Eswatini. (2019). *National Development Plan 2019-20-to-2021-22.* Publication of the Government of the Kingdom of eSwatini. Retrieved from: https://faolex.fao.org/docs/pdf/swa198143.pdf

Ighobor, K. (December, 2013). *Giving back to society. African philanthropists push for prosperity.* Retrieved from: http://www.un.org/africarenewal/magazine/december-2013/giving-back-society

Mpansu, B. T. K. (1986). *The African tradition of sharing.* The Ecumenical Review 38(4). pp. 386-93. https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1758-6623.1986.tb01371.x

OECD. (2009). *Report on abuse of charities for money-laundering and tax evasion.* A Publication of the Centre for Tax Policy and Administration. Retrieved https://www.oecd.org/ctp/exchange-of-tax-information/42232037.pdf

Woldeyes, Y. G. (2018). *Reimagining belonging: The quest of Africans for relational belonging and the Australian requirement of integration.* Retrieved from: https://www.researchgate.net/profile/Yirga-Woldeyes/publication/325058758_Reimagining_belonging_The_quest_of_Africans_for_relational_belonging_and_the_Australian_requirement_of_integration/links/5af3f819aca2720af9c48a27/Reimagining-belonging-The-quest-of-Africans-for-relational-belonging-and-the-Australian-requirement-of-integration.pdf.

About SIVIO Institute

SIVIO Institute (SI) is an independent organisation focused on ensuring that citizens are at the centre of processes of socioeconomic and policy change. It aims to contribute towards Africa's inclusive socio-economic transformation. It is borne out of a desire to enhance agency as a stimulus/catalyst for inclusive political and socio-economic transformation. SIVIO's work entails multi-disciplinary, cutting edge policy research, nurturing citizens' agency to be part of the change that they want to see and working with communities to mobilize their assets to resolve some of the immediate problems they face.

SIVIO institute has three centres/programs of work focused on; (i) civic engagement (ii) philanthropy and communities (ii) entrepreneurship and financial inclusion. In the process SI addresses the following problems:

- Inadequate performance of existing political and economic system
- Increasing poverty and inequality
- Limited coherence of policies across sectors
- Ineffectual participation in public processes by non-state actors
- Increased dependence on external resources and limited leveraging of local resources