

## **Funding Democracy – philanthropy, social justice, and the Constitutional Court**

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The Constitutional Court judgement on Nkandla (31 March 2016) has been widely hailed as a major victory for democracy itself, as a turning point in South African Constitutionalism. But some have said that it is a sad reflection on the state of our democracy if we see this moment as worthy of celebration, when in fact it is simply the Constitutional Court doing its job. However, it is critical to bear in mind that democracy is not an event, but rather a process. Democratic freedoms, in spite of one of the most progressive Constitutions in the world, have to be fought for in South Africa. We constantly have to push for, maintain and develop these freedoms and their implementation. Access to justice and the realisation of rights are not givens in South Africa and, to make these a lived reality for all, constant action is required – on the part of communities, social movements, activists, leaders, organisations and others.

This crucial work, though, comes at a financial cost. It needs to be funded, and one of the most important current sources of this funding is philanthropy - the grantmaking of private foundations, donations from individuals, and the support that active citizens commit to upholding the values of democracy. One of the major philanthropic supporters of South Africa's Constitutional Court has been The Atlantic Philanthropies who committed millions to supporting the upgrade of the Constitution Hill precinct in Johannesburg, along with an internship programme in support of Constitutional Court judges, amongst other initiatives associated with the South African Constitution. More recently, in February 2015, The Atlantic Philanthropies in partnership with the Ford Foundation and the Open Society Foundation of South Africa, committed to a joint Constitutionalism fund of \$20million to ensure ongoing support for initiatives to take legislative challenges to ConCourt for ruling.

On the platform of the values and principles enshrined in our Constitution, and the commitment of so many South Africans to ensuring the realisation of full constitutional rights for all, the philanthropy in support of Constitutionalism has been massive. In some senses the Constitutional Court judgement on Nkandla is a victory for philanthropy in support of democracy, as it is a milestone victory for democracy itself. The funders involved in supporting Constitutionalism in South Africa only have to take note of the efficacy of ConCourt processes to see the impact of their funding support.

To continue to build, maintain and strengthen support for a strong change-focused agenda for civil society in South Africa, the following (amongst many others) are important enablers:

- Active citizenship - the commitment and active engagement of South Africa's people in the identification and removal of obstacles to rights and justice
- The freedom to build democratic participation through social movements and civil society organisations
- The willingness of philanthropists, nonprofit organisations and social activists, to define and implement programmes for social and political interventions for change
- A Constitution which outlines the inalienable right to human dignity and equality, and which can be called upon directly in support of efforts to access rights
- A legislative framework that facilitates the space for civil society activists to speak, organise and demonstrate where they deem necessary, without fear of sanction (or worse)

- The political will of the state to ensure that civil society can operate openly without restriction, within the boundaries of the Constitution
- A post-secondary education system and structure geared to engage responsively with the needs and requirements of a strong democratic culture, and not only to respond to the needs of commerce and industry
- A progressive media that seeks out news and stories on issues of rights, civil society initiatives, and the watch-dogging of government and big business (for rights violations and other transgressions around good governance, transparency and accountability)
- The financial resources to conduct the work required – to support the organisation of initiatives, the design and implementation of campaigns, the physical space where organisations can do their work, legal challenges in court, and the many other tactics that might be employed by a movement or organisation to achieve access to rights and justice.

Currently in South Africa, most of the above enablers exist - and some require a more demanding and vociferous public than others. While human rights and change-focused activism takes place all over the world regardless of the existence of any of these conditions, it is these which (amongst others) most directly and actively support the attainment and realisation of rights and justice. Currently in South Africa, it is financial resourcing which surfaces as one of the key challenges. Any South African news channel provides evidence of the need for financial support for social justice initiatives at a local, provincial, national and regional level.

So where are things currently at in terms of local energy and growth in philanthropy? Aside from the extent to which Constitutionalism in our country has so fully been strengthened with philanthropic funding, much else has been happening in the local philanthropy field. We have seen the launch of a new online knowledge resource (at [www.resourcingphilanthropy.org.za](http://www.resourcingphilanthropy.org.za)) which offers insights, thoughts, expertise and information on practices of grantmaking in South Africa, including a look at The Atlantic Philanthropies' support of the Constitutional Court. This resource also offers an overview of the current state of the local philanthropy field, with a particular focus on funding in support of human rights and social justice.

In addition to the launch of *Resourcing Philanthropy*, another important launch of a different kind has taken place at Wits Business School with the announcement of Professor Alan Fowler's appointment into the brand new Chair of African Philanthropy - a long-overdue energy shot for building the field of philanthropy, not only in South Africa but also more broadly across the continent.

These are both clear signs of the growing energy and interest in the field of philanthropy in South Africa and on the rest of the continent – not just in the forms of giving, but also in who gives; what people commit their support to; the intentions behind giving; the reasons for wanting to contribute to a particular cause or organisation; how this giving takes place; and trends in amounts invested in particular causes.

While these research initiatives and this energy are absolutely critical in the strengthening of the environment in which philanthropy is built and broadened, a range of other features are required for local philanthropy promotion and growth. These include public encouragement and motivation for philanthropy; initiatives to foster an interest in and understanding of the field of philanthropy; the development of a strong research-derived knowledge base in this area; and building a strong professional infrastructure around the business and practice of high net worth philanthropy. In addition, the legislative framework for philanthropy must actively enable and encourage giving, rather than inhibiting it.

Philanthropy in South Africa has a long road to travel before it achieves maturity, but in the meantime we all stand to benefit from the fruits of philanthropic support for rights-focused endeavours and for issues of justice.

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