

Former South African president Nelson Mandela (right) stands with Treatment Action Campaign co-founder Zackie Achmat, after addressing a gathering in 2002 at the Nolungile Clinic in Khayelitsha township, located outside Cape Town, South Africa. The clinic that Mandela visited was the first site in South Africa to offer free anti-retroviral treatment.

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The Atlantic Philanthropies

Atlantic Insights

## Advocacy for Impact

BY ERIC BROWN



Atlantic Founder Chuck Feeney (left) and Christopher G. Oechsli, Atlantic president and CEO

### Foreword

ADVOCACY FOR IMPACT

CHRISTOPER G. OECHSLI, PRESIDENT AND CEO, THE ATLANTIC PHILANTHROPIES

he common quest of all who seek to achieve lasting improvements in our communities and in our world—whether we are individual donors, foundations, nonprofits, or government agencies—is to make the highest and best use of our resources. It requires us to ask questions like: What are our best opportunities to make a difference? What impact can we have and how do we know what impact our grants are having? What are grantee organizations accomplishing? What's working ... what's not? Or, as Chuck Feeney, founder of The Atlantic Philanthropies, never hesitated to ask, starting with the foundation's first grants in 1982: What will we have to show for it?

As we near the end of our organization's life, and have fully committed our endowment and will close our doors for good by 2020, we're not asking those questions to guide our work. Instead, we're asking what we learned after making \$8 billion in grants in Australia, Bermuda, Cuba, Great Britain, Northern Ireland, the Republic of Ireland, South Africa, the United States, and Viet Nam\* that might be useful to current and future donors and to leaders and staff of other funders and nonprofit organizations.

That's the purpose of this volume and others in our *Insights* series. From interviews with staff and grantees, a deep examination of records, and case studies of individual projects and initiatives, we've asked journalists and program evaluators to assemble information, reflections, and observations that we hope others can apply to their work.

<sup>\*</sup>For more on Atlantic's global activities, go to: www.atlanticphilanthropies.org/global-reach.

Each *Insights* volume covers a topic that we believe is distinctive of the work Atlantic has engaged in and that we are well-suited to explore, especially from our vantage point as a limited-life foundation. While we were richly endowed with assets, the fact we only had a set number of years to deploy them helps explain why we have been fixated, with some urgency, on answering the question: "What will we have to show for our work?"

For nearly the first half of our life, much of where and what to invest in often followed Chuck Feeney's personal explorations for what he called "ripe opportunities," especially ones representing a convergence of promising ideas and good people to implement them. After Chuck and the Atlantic Board made the decision in 2002 to commit all grant funds by the end of 2016, the foundation developed a more strategic approach, focusing primarily on four program areas: Children & Youth, Aging, Human Rights and Reconciliation, and Population Health, together with a Founding Chairman's program that supported Chuck's entrepreneurial initiatives, most often in higher education, and knowledge, research and innovation.\*

While these "opportunity-driven" and "strategic" approaches may differ in their framing, both reflected a consistency of underlying values, desired outcomes, and an effort to make a long-term difference that would influence institutions, systems and governments and, in so doing, multiply the return on the investment.

As a result, Atlantic's investments helped: Catalyze the advancement of knowledge economies in the Republic of Ireland and Australia. Hasten the end of the juvenile death penalty. Support grassroots campaigns to help win passage of and implement the U.S. Affordable Care Act and reduce the number of children without health insurance in the United States. Bring peace to Northern Ireland. Secure life-saving medication for millions afflicted with HIV/AIDS in South Africa. Reduce racial disparities in destructive zero-tolerance school discipline policies. Enable Viet Nam to develop a more equitable system for delivering health care throughout the country. Change U.S. policy with Cuba.

The approaches, strategies, and tactics we used that contributed to those and other Atlantic achievements over the years are examined, highlighted, and analyzed in our individual *Insights*.

<sup>\*</sup>For more on the background, history, and grantmaking associated with each of these programs, visit Atlantic's website: <a href="www.atlanticphilanthropies.org">www.atlanticphilanthropies.org</a>,

This volume explores how Atlantic's advocacy grantmaking supported efforts to change public policies or laws that unfairly disadvantaged people, often due to their race, gender, socio-economic factors or other circumstances beyond their control. The goals of this work varied from issue to issue—such as seeking to abolish the death penalty in the United States, securing treatment for those with HIV/AIDS in South Africa, expanding rights for LGBT people in the Republic of Ireland, and preventing U.S. students of color from finding themselves on the school-to-prison pipeline because of racially biased discipline practices.

The cases featured in this volume also reflect our belief that deploying private wealth to support groups whose aim is to promote fairness and equality can be both an appropriate and an effective form of grantmaking. As we show in the pages that follow, advocacy gives voice to people who otherwise might not be heard by those in positions of power and authority—the very people who are responsible for ensuring all citizens are both heard and treated fairly and equally.

We also are mindful of the fact that when foundations invest in advocacy, they are able to do so because of the wealth at their disposal and the freedom to use it for that purpose. That ability brings with it enormous responsibility. We took great care to ensure our actions were intended to increase the prospects for healthier and more inclusive societies and to support voices with an aspiration to advance the public good. Our decisions about what issues to take on and which groups to support followed careful study and deliberation. Only when a preponderance of evidence indicated both the need as well as the opportunity to make a lasting improvement in people's lives did we choose advocacy as our primary grantmaking strategy.

Additional *Insights* in our series describe other strategies and approaches that have guided our work over the years. For example, we detail how Chuck Feeney's belief in "Giving While Living" influenced how he approached his philanthropy and what it was like to operate as a limited-life foundation. In other volumes we explore the different ways we partnered and engaged with governments around the world to ensure that public systems, services, policies and practices respond to the needs of all people, including the most

vulnerable, and how our support for strategic litigation helped poor and marginalized people who were being treated unfairly. We also examine how our \$2.5 billion investments in capital projects helped advance our mission of building a better world

Taken together, our *Insights* reflect the result of the work of nearly 2,000 grantees, 300 Atlantic staff and directors, and hundreds, perhaps thousands, of formal and informal consultants, experts, friends, and inspirational people. We wrestled with whether and how to express this experience without unduly claiming responsibility for insights and successes that represent the contribution of many, both inside the foundation and outside Atlantic. In the end, and with due acknowledgment to and respect for Chuck and for his sense of privacy, modesty, and anonymity, we felt some responsibility to those who wanted to know more about what and how Atlantic did what it did. Our goal for these *Insights* — and for the materials we are collecting on our website and in our archives, which are being housed at Cornell University—is to contribute to the thinking and choices of others in philanthropy and in fields related to our work. We hope that, in some form, our knowledge and experiences will help advance the efforts of others working to improve people's lives in meaningful and lasting ways.

It's also important to note that regardless of the topic of the individual *Insights*, the thread running through them all is the recognition that all that Atlantic accomplished over the years was possible only because of Chuck Feeney's decision nearly four decades ago to endow his foundation with virtually his entire personal fortune. That action, unprecedented at the time, grew out of Chuck's basic sense of fairness and his deep desire to improve the lives of those who lack opportunity, who are undervalued or who are unfairly treated. As Chuck himself once said: "I had one idea that never changed in my mind—that you should use your wealth to help people."

Helping people—that's been Atlantic's work. We hope these *Insights* will inform and inspire others in their own endeavors to deploy wealth effectively to improve the lives of others.

Advocacy gives voice to people who otherwise might not be heard by those in positions of power and authority—the very people who are responsible for ensuring all citizens are both heard and treated fairly and equally.



Atlantic supported advocates working to modify laws or public policies that denied people opportunity, fairness or equity.

## Introduction

mong foundations, the topic of advocacy gets a mixed reception. Some wholeheartedly embrace it, while others worry that supporting advocacy will invite unwarranted attention or cause them to run afoul of the law. Atlantic's work shows that investing in advocacy is an effective way to advance positive and meaningful change, especially when the goal is to modify laws or public policies that deny people opportunity, fairness, or equity.

As illustrated in this *Insights* volume, over the years and in many of the places around the world where Atlantic operated, the foundation supported grantees to use advocacy to champion for causes such as:

- Abolishing the death penalty in the United States
- Ensuring all South Africans with HIV/AIDS receive life-saving treatment
- Enabling LGBT people in Ireland to enjoy the same rights under law as their fellow citizens
- Reforming harsh U.S. public school discipline practices that unfairly target students of color

Some of those efforts were enormously successful—South Africa is now the worldwide leader in providing treatment for those with HIV/AIDS, and Ireland has emerged as among the most progressive nations globally in how it protects the rights of LGBT people. On others, there has been great progress.

Atlantic structured its approach to using advocacy to have maximum effect as a limited-life foundation. The Atlantic Philanthropies

In the United States, as the number of executions continues to decrease, the momentum to finally abolish the death penalty builds. And across the country, U.S. public school districts have changed their approach to discipline, bringing the nation closer to ending the "school-to-prison" pipeline.

As a global grantmaker, Atlantic has always tried to understand the cultural context in which its grants occur.

Although each of the cases highlighted in the volume is different, there are themes common to them:

- Atlantic structured its approach to using advocacy so that it could have maximum effect given its plan—as a limited-life foundation—to complete grantmaking by the end of 2016. In fact, the foundation's highly concentrated levels of funding ultimately contributed to success.
- Atlantic invested in strategists as much as it invested in strategies, which have very much been part of the foundation's approach to investing in both people and organizations. In some cases, like in Ireland, Atlantic had no hand at all in designing the campaign strategy that led to successful passage of the ballot initiative approving marriage equality. In other cases, like school discipline reform, the foundation helped shape the strategy, but also gave the grantees great flexibility in how they implemented their individual efforts and campaigns. Wherever possible, the foundation tried to provide ample general support to ensure that organizations had essential infrastructure so that grantees could make their own decisions about where money could best be used.
- The role Atlantic played was much different depending on the strategy. In addition to funding support, Atlantic served as convener, counselor, and sometimes even referee. On occasion, the foundation played multiple roles within the same strategy. It led when it was helpful, but was just as ready to step into the background when it made sense to do so.
- Funder collaboration was not universal but made a huge difference on school discipline and death penalty reform. Collaboration is not for the

In addition to funding support, Atlantic's role was to serve as convener, counselor, and sometimes even referee.

- faint of heart, however. It can be time-consuming to build and maintain actionable consensus, and it requires a lot of flexibility to allow for different grantmaking styles and organizational processes.
- As a foundation that has made grants across five continents, Atlantic has always tried to understand the cultural context in which its grants occur. As you will see, the kinds of approaches that work in one country won't likely work in another, given vastly different cultural contexts. For example, in South Africa, there is a rich culture of protest and civil disobedience, which the Treatment Action Campaign used to move its political leaders to action. By contrast, in Ireland, leaders of the marriage equality campaign used a tone of conversation and inclusion, understanding that change in that country often happens incrementally and in a spirit of cooperation.\*

Collaboration is not for the faint of heart. It can be time-consuming, and it requires a lot of flexibility to allow for different grantmaking styles and organizational processes.

- Atlantic funded research and data where it seemed most likely to make a
  difference, but also tried to make sure that those findings were delivered
  by messengers who were most credible to the decision makers that were
  being targeted.
- Finally, as far as Atlantic was concerned, the foundation saw great value
  in being able to make grants for lobbying, which was an important,
  and probably essential, tool in its work to end the death penalty and to
  improve health systems in South Africa.

In all, this work has made a difference and that's what matters and why Atlantic believes these are stories well worth telling. The foundation also hopes that they add to a body of evidence that shows how foundations can bring about meaningful change in a wide variety of issues and geographies.

<sup>\*</sup>For other examples of Atlantic's work in specific countries, see our Country Books series: <a href="https://www.atlanticphilanthropies.org/insights/country-books">www.atlanticphilanthropies.org/insights/country-books</a> and Atlantic Insights: Government Partnerships & Engagement: <a href="https://www.atlanticphilanthropies.org/insights/insights-books/government-partnerships-engagement">www.atlanticphilanthropies.org/insights/insights-books/government-partnerships-engagement</a>.

The Atlantic Philanthropies

A final note: Rather than focus on *how* to *do* advocacy, Atlantic has chosen in this volume to concentrate instead on advocacy in action by showcasing the stories of dedicated groups and individuals the foundation supported around the world. For those interested in how to support advocacy, there are many useful resources online. Among them:

- The Atlas Learning Project (atlaslearning.org) provides a suite of resources to help funders and advocates achieve and defend policy change. Topics covered include engaging with and supporting 501(c)(4) organizations, using legal advocacy, building advocacy capacity while also funding for policy results, supporting collaborative multiparty campaigns, and effectively moving from policy change to implementation.
- **Bolder Advocacy** (<u>bolderadvocacy.org</u>) helps nonprofits and foundations demystify and decode advocacy by equipping organizations with knowledge and tools. It helps organizations fully understand the rules and become assertive in their right to pursue their policy goals.
- **Issuelab** (<u>issuelab.org</u>), a service of the Foundation Center, contains a number of helpful publications on advocacy.

Atlantic hopes that its work will add to a body of evidence that shows how foundations can bring about meaningful change in a wide variety of issues and geographies.



This work has made a difference. That's what matters and why these are stories well worth telling.





The United States is the only western democracy that still sentences people to death.

STANDARDS OF DECENCY

# Seeking to Abolish the Death Penalty

#### INTRODUCTION

he day may not be far off when the death penalty is finally abolished in the United States.

This optimism is based on a continuing drop in executions, a shrinking number of death sentences handed down each year, and opinion polls that show growing opposition among the public for the use of the death penalty.

Such an outcome—whether from a Supreme Court ruling outlawing capital punishment or all 50 states enacting bans—would be the result of a variety of factors, including a concentrated effort over many years by Atlantic and other donors to support the work of advocates who have campaigned, lobbied, and pursued legal action in their quest to abolish the death penalty.

The work appears to be paying off. A recent independent evaluation by Kay Sherwood and Michael Quinn Patton commissioned by Atlantic found that the foundation's efforts contributed to what they call "the momentum" toward abolition.

Atlantic's role in this work began in 2004 and ended 11 years later. During this period, the foundation invested nearly \$60 million. Although the decision to take on this work came relatively late in Atlantic's life—2004 was only 12 years before the foundation would conclude its grantmaking—the board, staff, and leadership saw it as an opportunity worth pursuing.

In Roper v.
Simmons,
the Supreme
Court ruled
that executing
individuals
who committed
crimes as
minors violated
the Eighth
Amendment's
provision
against cruel
and unusual
punishment.

The foundation had begun to explore the death penalty in the context of its work to protect what it referred to in a 2003 memo to the board of directors as "basically accepted human rights principles." Up until then, most of Atlantic's reconciliation and human rights grantmaking had occurred in Northern Ireland and South Africa. In creating a formal Reconciliation & Human Rights program, and making the death penalty a focus of this work in the United States, Atlantic felt that ending capital punishment would address a fundamental violation of basic human rights. Atlantic also believed that by supporting the work of advocates, there was a very real possibility of reducing or eliminating the use of the death penalty during the remaining years of the foundation's life.

As a first effort, the U.S. Reconciliation & Human Rights Program, which was at the time led by Rebecca Rittgers, decided to lend support to groups trying to end the juvenile death penalty. While there was little dispute that imposition of the death penalty at any age is a major violation of human rights, at that time staff felt that anti–juvenile death penalty advocates were close to achieving a big victory. Moreover, only a relatively limited amount of funding would be required to get behind an aggressive strategy, and success or failure would likely be known in a short time frame.

In seeking to abolish the death penalty, Atlantic felt it could make progress during its limited life in addressing a major human rights challenge.

In 2004, the Supreme Court accepted a case that sought to end the death penalty for all minors. Atlantic agreed to support an advocacy strategy in support of the constitutional challenge. The following year, the Supreme Court ruled in the case of *Roper v. Simmons* that to impose capital punishment for crimes committed while under the age of 18 violated the Eighth Amendment. Specifically, the Court stated that executing criminals violated the Eighth Amendment's provision against cruel and unusual punishment under what is known as the "evolving standards of decency" test. The concept was first articulated by Chief Justice Earl Warren in 1958, in *Trop v. Dulles*,

when he wrote that the Eighth Amendment is not static but "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society."

After the Court's ruling in *Roper*, Atlantic staff engaged in a strategic process to decide what to do next. Several options were on the table—it could move on to a different issue; it could tackle the problem of over-incarceration of juveniles and the practice of sentencing juveniles to life in prison without parole; or it could use the victory in the *Roper* case to attempt to end the death penalty entirely. Those who favored taking on the adult death penalty said the *Roper* victory showed that in some quarters attitudes toward capital punishment were changing in the country, making this a ripe opportunity. In addition, given Atlantic's limited budget and time horizon, it wouldn't have to start fresh but could build on investments it had made in support of the *Roper* case. Staff acknowledged that it was not likely that the foundation would see the abolition of the death penalty before it closed its doors. But they were confident that Atlantic's investments could push the movement to a point where it would build sufficient momentum toward ultimately achieving that goal.

In 2005, Atlantic created a grantmaking strategy to end the death penalty completely. The foundation's entrance into the field represented a major development. In particular, it was prepared to invest significantly, and at a far greater level than the \$3 million annually coming from five existing anti–death penalty funders.

While sensing opportunity, Atlantic also knew the challenges it faced. In 2005, 38 states permitted executions, courts handed down 139 death sentences, and 60 people were executed. Public opinion was also on the side of the executioners—two-thirds of Americans were in favor of the death penalty as a way of deterring crime and punishing the guilty. Of the states that permitted executions, only Illinois had a legal moratorium barring the use of the death penalty.

To Rittgers, the win that advocates scored when the Supreme Court outlawed the juvenile death penalty offered an important lesson. Reflecting on how a Atlantic's staff had confidence that its investments could push the abolition movement to a point where it would build sufficient momentum toward ultimately achieving that goal.

To end the death penalty, states could pass laws ending the practice, they could simply stop using it, or the Supreme Court could strike it down as unconstitutional, ending the practice nationwide.

relatively small number of advocates working on the issue collaborated well, she said, "We learned that if we do this smart, issue forceful calls to action, and lobby legislatures about values, we could use our resources effectively."

Nevertheless, the field was small and the organizations that constituted it were significantly underfunded. While many death penalty attorneys represented individual clients, there was no coordinated strategy to get the Supreme Court to overturn the death penalty.

Beginning in 2006, Atlantic joined with a number of other funders to design a coordinated campaign. The campaign was called Abolition2025\* for several important reasons—first, it was an acknowledgment that culture shift takes time. Achieving abolition by 2025 also provided the field with a goal to work toward. By setting a clear time frame, the campaign could set priorities for its work, and it could compare and vet strategies for getting to the goal. Finally, it was an acknowledgment that the campaign would extend beyond the end of Atlantic's life, and it provided an implicit encouragement to put a plan for sustainability in place.

#### ABOLITION2025 CAMPAIGN GOALS

here are two ways to abolish the death penalty—states could pass laws ending the practice or simply stop using it; or the Supreme Court could strike it down as unconstitutional, which would end the practice in all states.

While the program's strategy was to push for reform at the state level, where policies and laws around the death penalty are set, Atlantic staff knew that success in ending or lessening the use of the death penalty around the country could also influence the Supreme Court's thinking on the practice.

While many in the anti-death penalty community preferred forcing the Supreme Court to decide, they recognized that the cost of failure would be

<sup>\*</sup>The list of funders of Abolition2025 would include: The Atlantic Philanthropies, Butler Family Foundation, Fund for Nonviolence, Open Society Foundations, Tides Foundation, and the Wallace Global Fund, among others. Later, Voqal: The Call for Change, would support abolition through the Themis Fund.



Christina Swarns (center), the lead counsel for Duane Buck, is embraced by Buck's stepsister Phyllis Taylor outside of the U.S. Supreme Court on October 2016 in Washington, D.C. Buck had been on death row since his conviction in 1996 for a double murder committed in Texas. After the Supreme Court ruled that his sentence was racially biased, Houston prosecutors in 2017 offered Buck a plea deal for life in prison, sparing him from execution.

For the Supreme Court to abolish the death penalty, justices would need to be convinced that the "standards of decency" had evolved to the point that capital punishment for adults is considered cruel and unusual punishment.

high. A loss in the Supreme Court would represent a significant setback for the movement. However, should the Supreme Court determine that the death penalty was unconstitutional under the Eighth Amendment's prohibition of cruel and unusual punishment, it would settle the question for good.

Atlantic and its partners also understood that it would only make sense to bring a Supreme Court case if the conditions on the Court were optimal. Given the nature of the Court, and the fact that it's impossible to predict when the justices might agree to take up a case, they accepted the fact that achieving such a victory could take many years, and perhaps not before 2025. What they could control, however, was achieving victories on the indicators that the Supreme Court would take into account if and when it agreed to hear a case.

Since 2004, seven states have repealed their death penalty laws and four states have issued moratoria against it—more proof that the standards of decency are evolving.

All groups working toward abolition also agreed that for the Supreme Court to vote to abolish the death penalty, a majority of justices would need to be convinced—similarly as they had in *Roper v. Simmons*—that the "standards of decency" had evolved to the point that capital punishment for adults also is cruel and unusual punishment and prohibited by the Eighth Amendment.

As a result, Abolition2025 focused on the following as a way of ultimately influencing the Supreme Court:

#### 1. Changing public discourse about the death penalty

Given that a standard of decency is inherently a values-driven concept, it was clear that a large part of this campaign would require shifting societal norms about the death penalty. This would require a forceful communications strategy to, as Rittgers noted, "build up in the American ethos an understanding that the standards of decency have evolved."

## THE IMPORTANCE OF COMMUNICATIONS TO CHANGING THE PUBLIC DISCOURSE

he grantmaking strategy to abolish the death penalty supported policy advocacy, outreach and organizing, litigation, and electoral activities. A strong and focused communication strategy has also been very important to the national abolition campaign.

The central goal of the communications effort has been to change public discourse about the death penalty in ways that would result in:

- more states striking down their death penalty laws
- fewer prosecutors seeking the death penalty and fewer juries and judges sentencing people to death
- additional states limiting or abolishing capital punishment

The messages that national information campaigns have been using highlight the flaws with the country's death penalty system: it's expensive, it disproportionately affects low-income people and people of color, innocent people are being put to death, and it does not deter crime, among other messages. Moreover, it is unevenly applied — a mere 2 percent of the country's counties issue 50 percent of the death sentences.

The ultimate hope is that as more people understand the truth about the death penalty, growing numbers will conclude that it serves no useful purpose.

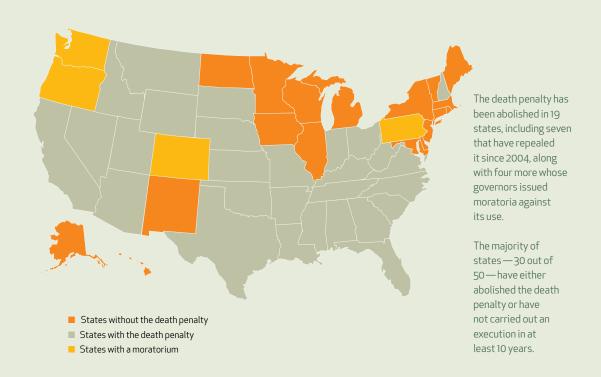
Those messages have been resonating with state governors and legislatures. Since 2004, seven states have repealed their death penalty laws and four states have issued moratoria against the death penalty.

Pennsylvania Governor Tom Wolfe echoed many of the messages being advanced by advocates when he instituted that state's moratorium on the death penalty in 2015, calling it a "flawed system that has been proven to be an endless cycle of court proceedings as well as ineffective, unjust, and expensive".

Other evidence that the anti-death penalty message is being received nationwide can be seen in polls over the years that show a steadily declining drop in public support. For instance, a 2016 poll conducted by the Pew Research Center shows that the share of Americans supporting the death penalty had fallen to its lowest levels in more than 45 years, dropping below 50 percent for the first time since 1971. While such a dip in public opinion would be important in a future Supreme Court case, justices take other factors into account as well. In Eighth Amendment cases, the Court has paid particular attention to whether juries impose the death penalty and how elected lawmakers vote on legislation to limit or abolish the death penalty.

Advocates understand the value of credible messengers and have worked closely with a wide variety of partners. These include evangelicals and conservatives who say the death penalty is ineffective, wasteful, and unjust; victims' families, who say that the death penalty process prevents families from achieving closure and argue that the money saved by closing death row could be better spent for victims' services or to reopen cold cases; and exonerees, who are living proof of the failure of the system to properly determine guilt.

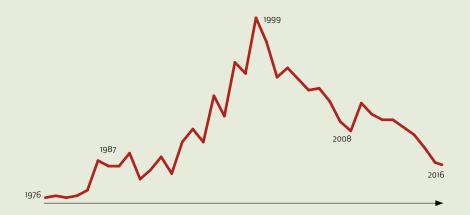
#### STATES WITH AND WITHOUT THE DEATH PENALTY



#### 2. Getting states to repeal the death penalty

When states outlaw the death penalty, they are indicating that it is no longer considered an acceptable form of punishment—more proof that the standards of decency are evolving. Because getting states to repeal the death penalty is an inherently political process that involves advocating for specific policies, Atlantic felt that the most effective route to policy change would require aggressive advocacy efforts that included direct lobbying. The foundation was able to make grants through its Atlantic Advocacy Fund, a 501(c)(4) organization that can support ballot initiatives, direct lobbying, and other activities. Many private endowed foundations do not have a 501(c)(4) funding arm and thus Atlantic's role proved to be extremely valuable.

#### **EXECUTIONS BY YEAR**



Executions in the United States started falling after reaching a peak of 98 in 1999. In 2016, states carried out the fewest number of executions (20) in 24 years.

Source: www.deathpenaltyinfo.org

#### 3. Reducing the number of death sentences and executions

Juries deciding not to impose death sentences could indicate to the Supreme Court that, as maturing society, growing numbers of people no longer believe execution serves any benefit. Similarly, when states decide not to carry out executions, they are demonstrating their discomfort about killing people. Atlantic determined that the most effective approach to achieving a reduction in death sentences was to provide funding for litigation in capital cases. In some instances, that money paid for lawyers to mount vigorous defenses for individuals on trial for their lives, while on other occasions the funds were used to bring court cases challenging the legality of lethal injections.

A 2016 Pew Research Center poll found that the share of Americans supporting the death penalty had fallen to its lowest levels in more than 45 years.

#### ADVOCACY, ORGANIZING, LITIGATION

s Rittgers had observed in 2004, Atlantic had an opportunity to make a large investment in ending the death penalty. Over 11 years, the foundation would ultimately invest \$60 million toward this effort, or roughly 60 percent of all funding for death penalty abolition during this period.

Over 11 years, the foundation would ultimately invest roughly 60 percent of all funding for death penalty abolition during this period. By the time Atlantic joined the effort, organizations were beginning to have success, even though the work had never been well-funded. The conditions were excellent for a grantmaking strategy to make a difference—especially one with a national focus.

At the time Atlantic began working on the death penalty, most activity was taking place on the local level. That included litigating individual death penalty cases and undertaking grassroots advocacy to end capital punishment in specific states. None of this work was coordinated and there was very little interaction among national advocates, grassroots groups, and litigators. There was no collaborative funding process either, and the combined \$3 million annual funding was a small sum relative to the task.

Abolition2025 set out to change that. The campaign established a national steering committee and a national campaign coordinator, and it funded national anchor organizations, including Equal Justice USA and the National Coalition to Abolish the Death Penalty. It also convened regular meetings and conferences to bring together all aspects of the abolition movement to develop a national strategy, which was in effect a state-by-state strategy, and to share best practices.

The funders included: The Atlantic Philanthropies; Butler Family Foundation; Fund for Nonviolence; Open Society Foundations; The Anonymous Fund and the Death Penalty Mobilization Fund (both housed at Tides Foundation); and the Wallace Global Fund.\* They established a group called Funders for Alternatives to the Death Penalty and agreed to coordinate funding in support of the strategy. Applicants would submit an annual single letter of inquiry to the Funders for Alternatives to the Death Penalty, which focused grantmaking and streamlined paperwork.

<sup>\*</sup>Wallace Global Fund stopped participating as a member of Funders for Alternatives to the Death Penalty after the first few years, but became participants of the Themis Fund, which later took over this work.

The grantmaking strategy also included funding for the necessary legal work to bring a good case, including monitoring the courts to identify possible cases and supporting friend of the court briefs from a variety of sources.

With Abolition2025 fully in place, there was now a process to launch a national campaign and a steering committee made up of grantees who worked together to create a national strategy document for the movement. This in turn helped donors make informed, coordinated decisions about how to make grants, and helped organize the work.

At the time Atlantic began working on the death penalty, most activity was taking place on the local level. But the conditions were excellent for a grantmaking strategy to make a difference—especially one with a national focus.

Over the course of the campaign, advocates made a great deal of progress. Since 2005, the death penalty has been ended in 11 states through legislative bans, court rulings, or gubernatorial moratoria.

In addition to pushing for abolition in states that did not regularly use the death penalty, the campaign achieved progress in other places around the country still issuing or carrying out death sentences. For example, the number of death sentences imposed fell from 140 in 2005 to 30 in 2016. The statistics around executions are a little more complicated. After a low of 37 in 2008, they spiked to 52 in 2009 and then began coming back down again steadily, to 20 in 2016. The drops in death sentences and executions largely resulted from support to public interest law firms whose lawyers were able to mount effective defenses. Executions were also prevented by lethal injection court challenges that rendered some state lethal injection protocols invalid and prevented some states from obtaining execution drugs. Their work especially paid off in states such as Alabama, Arizona, Georgia, and Texas, which were prone to handing down death sentences and carrying out executions.

Advocates understand the value of credible messengers and have worked closely with a wide variety of partners.

#### A CASE STUDY IN NEW MEXICO

he national strategy to move broad public understanding about the death penalty went hand in hand with state-by-state campaigns. As states succeeded in overturning death penalty laws, it provided important momentum to push for others to act. This also advanced the constitutional argument that the standards of decency were evolving.

New Mexico provides an excellent example of how activists successfully used targeted advocacy. The campaign, led by a small, grassroots organization called the New Mexico Coalition to Repeal the Death Penalty, used tactics that included:

- Message development
- Grassroots advocacy
- Lobbying
- Media outreach
- Direct policy advocacy

The coalition developed six clear messages that they hoped would ultimately sway the legislature and the governor. They were:

- New Mexico public opinion supports this approach.
- Keeping the death penalty means risking a wrongful execution.
- The death penalty costs too much.
- The world is watching.
- Abolishing the death penalty actually helps the families of murder victims.
- Society is safer without the death penalty.

Their campaign was directly targeted at the legislature, with a goal of passing a bill that would repeal the state's use of the death penalty. In advance of the 2009 legislative session, death penalty opponents held events across the state at schools, churches, non-profit organizations, and elsewhere to prepare participants for an Advocacy Day in the state capital. On that day, advocates fanned out across the capital, meeting with elected officials, holding press conferences, and making their voices heard.

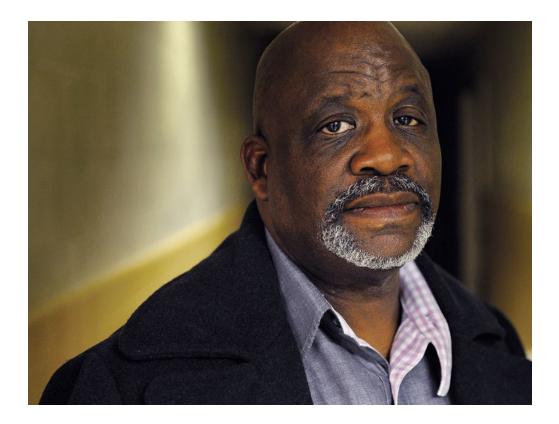
Governor Bill Richardson, who had previously supported the death penalty, was persuaded to sign a repeal bill, citing many of the arguments put forward by the Coalition.

Media outreach included national and international television, print, and radio interviews. It even included a play about the case of a death row inmate who had been exonerated that had been commissioned for the purpose of highlighting the injustice of the death penalty.

The intense lobbying paid off, and the New Mexico House and Senate sent a repeal bill to the desk of Governor Bill Richardson, who had previously stated his support for the death penalty. He was persuaded to sign the bill, citing many of the arguments put forward by the Coalition.



Exonerees such as Ron Keine, right, who spent 22 months on death row for a wrongful conviction, have proved to be credible messengers for persuading the public and lawmakers that the death penalty should be abolished.



Former executioner Jerry Givens now lobbies against the death penalty. He gives talks and motivational speeches on the topic.

#### WHAT THE WORK ACHIEVED

eath penalty opponents are achieving important successes. Through the end of 2016:

- Only 30 death sentences were handed down, the fewest since the reinstatement of the death penalty in 1976.
- States carried out the fewest number of executions (20) in 24 years.
- Five states performed executions—the smallest number in 25 years—and down from 16 in 2005.

A 2016 Washington Post/ABC news poll on the death penalty found for the first time that a majority of Americans favored life imprisonment without parole instead of the death penalty when offered those two choices (52 percent vs. 42 percent).

In addition, 19 states did not have the death penalty. New Jersey, New Mexico, Illinois, Connecticut, and Maryland abolished the death penalty through their legislatures in 2007, 2009, 2011, 2012, and 2013, respectively; and laws permitting the death penalty were ruled unconstitutional by the high courts of New York in 2007 and Delaware in 2016. Although 31 states still retain the death penalty, only five of them actually carried out executions in 2016. In addition, 11 states, the U.S. Federal Government, and the U.S. Military currently are de facto abolitionist by U.N. standards, which means they haven't carried out executions in over 10 years.

The funding landscape continues to evolve. In 2016, the Themis Fund, which had taken over for the Funders for Alternatives to the Death Penalty several years earlier, concluded its work. Responsibility for funder coordination and fundraising shifted to the 8th Amendment Project. Like Themis before it, the 8th Amendment Project is an initiative of the Proteus Fund. To achieve the goal of getting the Supreme Court to ban the death penalty in the United States, the 8th Amendment Project sets the national abolition strategy and works to ensure that groups carrying out its various elements—advancing abolition research, raising issues of legal system accountability, repealing or restricting state death penalty laws, and helping with capital defense efforts—do so in a coordinated fashion.

Although 31 states still retain the death penalty, only five of them actually carried out executions in 2016.

#### ATLANTIC'S ROLE: WHAT WORKED

n examining the history of Atlantic's effort to abolish the death penalty, several aspects of how it approached this work offer guidance to other funders:

**Investment in infrastructure.** Atlantic placed a high priority on ensuring that grantees have reliable, institutional support to carry out their work. This kind of funding pays for staffing, materials, and other campaign-related costs that can be very hard to come by. It also paid for field-wide meetings that allowed organizations that would otherwise not have collaborated to share ideas and learn from each other. As one observer noted, "The value of Atlantic's commitment to pay for infrastructure cannot be overstated."

Atlantic placed a high priority on ensuring that grantees have reliable, institutional support to carry out their work. This kind of funding pays for staffing, materials, and other campaign-related costs that can be very hard to come by.

**Commitment to advocacy.** Much of Atlantic's funding came in the form of 501(c)(4) grants. This money can be explicitly used for lobbying and other political activities, including drafting legislation, persuading legislators to introduce legislation, and sharing lobbying materials to help pass or defeat legislation, among other activities. While 501(c)(3) organizations can engage in certain kinds of lobbying, (c)(4) money is considered far less restrictive. Here, Atlantic was able to fund political advocacy activities in ways that other private foundations were not.

**Co-funder.** Atlantic was an active collaborator with a group of funders who worked together to create a coherent funding strategy. In addition to making grants that other funders are less likely to make, Atlantic worked with other funders to advance cooperation and communication among the group, and to ensure that each funder had an important role to play.

**Strategy coordinator.** There were a number of occasions when it became clear that a robust, coordinated strategy was needed. In 2007 and then again in 2013, it became necessary to call for a cohesive vision to guide the work. While the strategy development was a collaboration of funders and practitioners, Atlantic wanted to make sure that the strategy was developed and implemented cooperatively. There was no consensus, however, about who was best suited to shape the death penalty strategy. Some advocates became concerned that the field was fracturing and that funders could help maintain discipline, while others would have preferred funders to leave more decision-making to the field. It remains to be seen whether this approach, which was shaped by the funding community, will prove to have been effective.

Much of Atlantic's funding came in the form of 501(c)(4) grants—money that can be explicitly used for lobbying and other political activities.

#### WHAT WE LEARNED: LESSONS FOR THE FIELD

he death penalty is one of the most controversial and challenging issues in America today. Creating a grantmaking strategy to take on such a challenge is no small thing. These are some key lessons Atlantic has learned from doing this work:

#### 1. Funding for policy advocacy made a huge difference

Atlantic has both (c)(3) and (c)(4) grantmaking capability, which is relatively rare in the United States. As noted, in the United States, (c)(4) grants can be used for direct lobbying, ballot initiatives, and other electoral activities. As a result, funders who can make (c)(4) grants are able to have an outsized influence. The vast majority of U.S. foundations are restricted to (c)(3) grantmaking. Many of them shy away from working on projects that involve (c)(4) grants, even if they are not the ones providing the funding, out of a reluctance to be perceived as engaging in direct advocacy. Seeking legal counsel is always advisable so that funders can maximize their advocacy grantmaking, even if they aren't able to make (c)(4) grants. According to Shyaam Subramanian, Southern California Counsel at the Alliance for Justice, "Foundation support for nonprofits that engage in advocacy, including lobbying, isn't just legal—it's important, powerful, and fundamental to democracy."\*

<sup>\*</sup>For more information on foundation funding for advocacy, see www.bolderadvocacy.org/focus-on-foundations.

#### 2. Collaboration can be tricky, but it's essential

"Good collaboration has been perhaps the most important aspect of this work," said Annmarie Benedict, who led Atlantic's grantmaking strategy on the death penalty beginning in 2012. "We just couldn't have done this alone," she said. Collaboration has taken many forms. Funders came together to share a grantmaking strategy and determine how to ensure that the strategy was properly funded. Atlantic provided funding to allow members of the campaign to meet in person to share ideas and strategies. Where implementation and adherence to the strategy have fallen short, it is largely because of a failure of the field—both funders and advocates—to find ways to collaborate effectively.

For instance, while the efforts of the Funders Against the Death Penalty yielded a great deal of progress from 2007 to 2013 (as the case study in New Mexico demonstrates—see page 27), some funders and grantees felt that, not all funding was sufficiently strategic. There were disagreements about strategy and turf issues, as well as some tension among participants. One observer noted that, toward the end of this period, "It wasn't feeling like a campaign anymore."



#### 3. Getting consensus around a strategy takes work, but it's worth it

Some of the greatest challenges occurred when there was a lack of clarity around particular goals and the strategies to achieve them. Nevertheless, the field has been able to organize around a common campaign approach, pushed by funders and advocates alike.

If you invest in strategists, you won't have to do as much micromanaging.

#### 4. Invest in strategists rather than strategies

As one observer noted, "Strategy is a living thing. You can't predict which way the river is going to flow at any given moment. If you invest in strategists, you won't have to do as much micromanaging, and you can build sustainable institutions that can carry out the work over the long haul."

#### 5. There might be tension

This campaign has brought together grassroots advocates, attorneys, national organizations, and a number of grantmakers with widely ranging perspectives in an attempt to undo a form of punishment that has endured nearly unabated since the founding of the nation. The fact that the movement has been so



successful is a testament to the talents and commitment of all involved, but it is unsurprising that there have been fits and starts. Funders who choose to wade into such challenging waters should be prepared to endure moments of frustration. One advocate offered this advice, "Different funders have different biases about different kinds of funding. Be honest about what you fund and why."

"The Supreme Court should acknowledge that capital punishment violates human dignity and constitutes cruel and unusual punishment."

Laurence Tribe, the Carl M. Loeb University Professor and Professor of Constitutional Law at Harvard Law School

#### CONCLUSION

n the past decade, the death penalty abolition movement has achieved a great deal of success. Given that the campaign's initial target was to end the practice by 2025, it's reasonable to conclude that the work is ahead of schedule. The role of advocacy and effective communications cannot be overstated. Advocates have conducted a comprehensive campaign to conduct vocal grassroots organizing to put pressure on legislators, they have designed smart communications to highlight the issue, and they have delivered politically savvy approaches to identifying audiences and creating messages that speak to their audience's values—invariably delivered by credible messengers.

As a result, the use of the death penalty has hit historic lows, which demonstrates an almost inexorable movement away from its use and which shows that there is a growing consensus that it should be abolished. Abolition is by no means a foregone conclusion. The field must continue to demonstrate to the Supreme Court that the combination of the country's evolving so-called "standards of decency" and a growing national consensus against the death penalty provides compelling reasons for the justices to determine that it should be abolished. Or as Laurence Tribe, the Carl M. Loeb University Professor and Professor of Constitutional Law at Harvard Law School, wrote in an op-ed in *The Washington Post* in November 2017, by deciding now to end capital punishment, the Supreme Court "would be recognizing our country's movement away from the death penalty." Tribe also urged the Court to "acknowledge that capital punishment violates human dignity and constitutes cruel and unusual punishment."

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The Campaign to Take On the AIDS Crisis | South Africa



Where officials once recommended lemon juice and garlic as a treatment, the South African government now spends billions of dollars a year to use the best science possible to attempt to stem the HIV/AIDS epidemic.

**HIV POSITIVE** 

# The Campaign to Take On the AIDS Crisis in South Africa

#### INTRODUCTION

n July 2016, more than 18,000 scientists, policymakers, world leaders, and people living with HIV met in Durban, South Africa, for the 21st International AIDS Conference. As host, South Africa had reason to be encouraged—despite very high numbers of people living with HIV, the country is recognized as the worldwide leader in providing treatment for people with HIV and AIDS. By 2016, South Africa was providing treatment to more than three million people, more than any other country, and while nearly one in nine South Africans is living with HIV/AIDS, people are living longer and staying healthier than at any time since the disease reached pandemic levels in South Africa in the early 1990s.

Just a decade and a half earlier, the situation was much different. South Africa's president Thabo Mbeki had infamously denied that HIV causes AIDS. Addressing the South African Parliament in 2000, he said, to the derisive laughter of the country's parliamentarians, "When you ask the question, 'Does HIV cause AIDS?' the question is, 'Does a virus cause a syndrome?' How does a virus cause a syndrome? It can't."

To make matters worse, Mbeki established a Presidential Advisory Panel in 2000 regarding HIV/AIDS that included international scientists who

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The result of the South African government's failure to use science to make decisions about public health treatments was tragic. By 2002, four million people had contracted HIV, but not a single person was treated for the disease through the public health system.

Lack of access to public treatment and the high cost of private treatment once made an HIV diagnosis the equivalent of a death sentence for all but the wealthiest South Africans.

denied that HIV caused AIDS. His Minister of Health, Dr. Manto Tshabalala-Msimang, actively promoted the use of scientifically unproven remedies and concoctions and suggested that sick people would get better if they improved their nutrition, recommending a course of beetroot, potatoes, lemon juice, garlic, and olive oil. Dr. Tshabalala-Msimang would come to be known by the nickname "Doctor Beetroot." Later, she exacerbated the problem by championing the dangerous approach of German vitamin salesman Mathias Rath, who recommended that HIV patients quit antiretroviral drugs, which had been proven to be highly effective, in favor of his homeopathic remedies, which had not. The result of the South African government's failure to use science to make decisions about public health treatments was tragic. By 2002, four million people had contracted HIV, but not a single person was treated for the disease through the public health system.

# THE ATLANTIC PHILANTHROPIES TAKES ON THE TREATMENT CRISIS

he Atlantic Philanthropies had been making investments in South Africa in a variety of areas beginning in 1991. Its Reconciliation & Human Rights Program focused on advancing social justice, civil society activism, and higher education as the nation sought to emerge from its apartheid legacy into a new pluralistic democracy. After Atlantic determined in 2002 that it would be a limited-life institution, it concentrated its work in the country in areas in which it felt it could have maximum effect given the shortened time frame. The decision to tackle the HIV treatment crisis quickly rose to the top as one of the issues that merited the foundation's support.



Before the government made antiretrovirals available, children such as 5-year-old Nonhlanhla lost their mothers or fathers to AIDs in record numbers.



Vuyiseka Dubula, an HIV activist from South Africa, expected to die because antiretroviral medicine was too expensive for her to purchase 14 years ago. She became active in the movement after a group of American HIV-positive men came to give talks in South Africa, telling people it was possible to live with the disease.

At the time, people with HIV and AIDS in South Africa were not getting the treatment they needed. Moreover, many people were being discriminated against based on their HIV status. Given the complete lack of access to treatment within the public health system and the high cost of private treatment, an HIV diagnosis was the equivalent of a death sentence for all but the wealthiest South Africans.

To confront the HIV crisis, Atlantic decided to focus on building the voice of the disadvantaged and vulnerable to push the health system to deliver proper services. It also worked to strengthen the legal system and use the law to help the most marginalized communities gain rights and protections they had been promised in the newly ratified constitution in 1997. Some of this work was an extension of what Gerald Kraak, Atlantic's program executive for Reconciliation & Human Rights, had been overseeing for several years. Zola Madikizela joined Atlantic's Johannesburg office in 2002 as the foundation's Population Health program executive to help manage the health-related aspects of its new HIV grantmaking.

As the foundation looked for the organizations best equipped to anchor Atlantic's strategy, one that stood out was the Treatment Action Campaign, known popularly as TAC. TAC was launched in late 1998 by a group of activists, including anti-apartheid veterans Zachie Achmat and Mark Heywood, and assisted by Edwin Cameron, an openly gay, HIV-positive judge who would eventually ascend to the South African Constitutional Court. These leaders were frustrated by the government's lack of progress in acknowledging the devastating scourge of the HIV epidemic and its refusal to seek scientific solutions to the problem. Their agenda was to ensure that anyone in South Africa living with HIV could receive safe and effective treatment, particularly antiretroviral drugs, which were relatively affordable, readily available, and widely used in many other countries. Because the South African government had granted generous patents to international pharmaceutical companies that eliminated competition, antiretroviral drugs were extremely expensive in South Africa and well out of reach for most of the country's citizens who were struggling with the disease.

TAC made its presence felt through a series of highly visible moves that garnered significant public attention and which enabled the organization to

To confront the HIV crisis, Atlantic decided to focus on building the voice of the disadvantaged and vulnerable to push the health system to deliver proper services. attract many more activists to join the cause. TAC's campaign was launched with a number of notable events that showed the organization's talent at highlighting its issues in compelling ways. In one of its first public actions in 1999, several hundred activists, including doctors, church leaders, traditional healers, and people with HIV, carried out a public fast, lying on the ground outside Chris Hani Baragwanath Hospital in Johannesburg to demand that pregnant women be given either the drugs AZT or Nevirapine to prevent transmitting HIV to their babies during childbirth. The event attracted attention across the country.

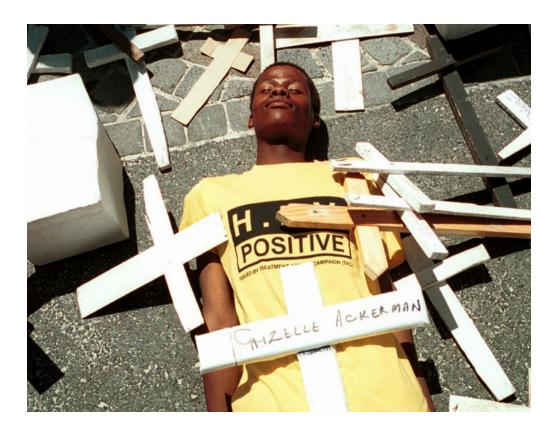
Atlantic's general operating support enabled TAC to bolster its activities, which included organizing in regions across the country using social media and traditional media.

It was this kind of understanding of how to capture the public's imagination that led Atlantic to choose TAC as the anchor organization for a campaign to compel the South African government to provide life-saving treatments for people with HIV/AIDs.

#### ATLANTIC SUPPORT FOR ADVOCACY AND LEGAL WORK

tlantic made grants totaling approximately \$7.6 million to TAC and the campaign's primary source of legal counsel, the AIDS Law Project at the University of Witwatersrand. That funding underwrote both advocacy efforts and relentless legal work.

Atlantic's general operating support enabled TAC to bolster its activities, which included organizing in regions across the country using social media and traditional media, and undertaking a wide range of community outreach programs to communicate its message. TAC also carried out mass protests, hunger strikes, and sit-ins. In addition, it organized acts of civil disobedience—often at great personal risk—and prominent leaders even refused to take their own HIV treatment until such treatments were readily available through the



TAC made its presence felt through a series of highly visible moves that garnered significant public attention and enabled the organization to attract many more activists to join the cause.

public health service. TAC worked with news organizations, coordinated with a legal team to repeatedly litigate important issues with the South African government, and collaborated closely with scientists and academics to build an evidence base to refute claims made by HIV denialists and to find better ways to treat people with HIV. They would later work with rural health workers to ensure that there were sufficient medicines and medical professionals to administer those medicines outside the city centers.

As TAC's legal partner, the AIDS Law Project joined in a number of successful lawsuits against the South African government. (The group later spun off into an independent entity known as Section 27, named for the clause in the Constitution of South Africa guaranteeing the right of all South Africans to health care. The close working relationship between Section 27 and TAC endured—Section 27's Executive Director Mark Heywood, one of TAC's founders, went on to serve on its board, and its board chair, Vuyiseka Dubula, was TAC's former general secretary.)

In addition to TAC and the AIDS Law Project, Atlantic provided support to the following organizations to further the reach and impact of the campaign:

#### **Health-e News**

TAC had a keen understanding of the value of news coverage to advance its goals. It worked closely with journalists from Health-e News to illustrate how important the health crisis was. Health-e News is a nonprofit news organization that provided coverage of public health issues under contractual arrangements with newspapers, websites, television stations, and magazines across South Africa. Health-e News produced nearly 2,000 print stories between 2005 and 2014—many of which documented the need for proper medication for HIV patients. As Professor Francois Venter of the Southern African HIV Clinicians Society notes, "I suspect that more people would have died if it hadn't been for Health-e News."

#### Southern African HIV Clinicians Society

Given the tremendous amount of disinformation about HIV that was being spread by a few very senior and influential officials in Thabo Mbeki's government, there was a particular need for peer-reviewed scientific evidence that

TAC could use to advance its arguments. The Southern African HIV Clinicians Society was a promising but fledgling organization when Atlantic began providing funding to strengthen it in 2006. Soon they established themselves as an elite advocacy group of academics and intellectuals, regularly presenting at international conferences, and publishing essential scientific evidence that focused on the science of HIV and AIDS locally and internationally. They soon became a "voice of reason" on the science of HIV/AIDS in South Africa.

"TAC was successful in winning the right to treatment in concept. The Rural Health Advocacy Project made sure that people with HIV won the right to treatment in reality."

Barbara Klugman, South African health expert and researcher

#### **Rural Health Advocacy Project**

It was not only essential to compel the government to agree to provide life-saving medicine and medical care to its people, but to ensure that the government would have to deliver on its promise. Funding to the Rural Health Advocacy Project (RHAP) was designed to pressure the government to pay attention to neglected communities. Rural provinces in South Africa have the poorest health care. RHAP was launched in 2009 as a project of the Rural Doctors Association to advocate for the many rural health workers and communities that were being left behind. The organization made it easier for doctors and other health care professionals to voice their concerns about lack of medicine, clinics, and other services that poor rural communities needed. As South African health expert and researcher Barbara Klugman notes, "TAC was successful in winning the right to treatment in concept. RHAP made sure that people with HIV won the right to treatment in reality."

Another organization that was not a grantee of Atlantic, Médecins Sans Frontières (MSF), was nevertheless a valuable ally and an important part of the larger strategy to ensure that the government would take up the cause of effective HIV treatment. The group, known in English as Doctors Without Borders, would often intervene in areas and instances where the South African

The high cost of drugs was a significant obstacle to a national program to provide treatment for the millions of South Africans struggling with HIV.

government would not or could not act. MSF would provide essential medical care, often showing the effectiveness of antiretroviral treatments, or simply just provide services that poor communities would otherwise not receive. These interventions provided replicable models that demonstrated what could be done and were used by lobbying groups to put pressure on the government to act.

By turning to the constitution, the campaign was not only on firm legal footing, but it also could tap into a shared national value of promoting human rights.

#### TAC'S ADVOCACY STRATEGY

t the center of TAC's efforts was a highly sophisticated and robust advocacy strategy. The goal was to pressure the South African government to offer universal access as the means to prevent people from contracting HIV, to provide effective treatment for people living with HIV, and to ensure that pharmaceutical companies would make life-saving medicines available to the government at a reasonable cost. TAC and its partners looked to Section 27 of the Bill of Rights in the Constitution of South Africa, which states, "The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of ... the rights to access to health care services, sufficient food and water, and social security." The constitution is a great source of pride for South Africans, and it has been hailed as a model of modern democracy. Indeed, United States Supreme Court Justice Ruth Bader Ginsburg remarked in a 2012 interview, "If I were drafting a constitution ... I might look at the constitution of South Africa. That was a deliberate attempt to have a fundamental instrument of government that embraced basic human rights." TAC felt that by turning to the constitution, it was not only on firm legal footing, but it also could tap into a shared national value of promoting human rights in a new democracy.

One challenge that TAC faced, however, was the intense stigma that HIV-positive status carried with it. It was important to communicate that people with HIV had a right to treatment and that people should not fear getting



TAC activists at a rally against AIDS denialists.

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tested out of a concern that they would face discrimination in the event that results showed the presence of HIV antibodies. In one prominent case, a volunteer field worker for the National Association of People Living with HIV/AIDS named Gugu Dlamini was beaten and stoned to death after revealing on World AIDS Day in 1998 that she was HIV positive. In response, TAC created t-shirts reading "HIV POSITIVE" in large letters across the chest. Over time, activists, family members, and other supporters of TAC's work would wear the shirt as a public display of support. This would include Nelson Mandela, who put the shirt on in a 2002 meeting with TAC, adding incalculable legitimacy to the cause. His own son, Makgato, died of HIV/AIDS in 2005, and Mandela publicly disclosed the cause of his death.

TAC members worked closely with government officials to advance their goals, and also had activists across the country at their disposal.

Removing the stigma of HIV status also gave people confidence to advocate for their own care. Another important part of this approach required that people better understand the science of HIV so they could learn how to keep themselves healthy as well as communicate their needs to local health officials. TAC published a newspaper called *Equal Treatment*, which was designed to simplify medical vocabulary into terms that would be easily understandable by all South Africans. Between 2005 and 2014, TAC produced 32 issues of *Equal Treatment*, publishing almost 800 articles on topics that included treatment, prevention, and HIV advocacy. By 2016, *Equal Treatment* had evolved into a publication called *Spotlight*, a joint venture between TAC and Section 27.

Between 2005 and 2014, TAC produced 32 issues of *Equal Treatment*, publishing almost 800 articles on topics that included treatment, prevention, and HIV advocacy. The aim was to help people better understand the science of HIV.

TAC worked to create partnerships among lawyers, service providers, researchers, and advocacy groups, and also sought to build a base of support among people affected by HIV and AIDS. In this so-called "inside/outside" strategy, TAC members worked closely with government officials to advance their goals, and also had activists across the country at their disposal. As Klugman notes, "They knew when to do a sit-in and when to work with people directly."

As one of its first major advocacy efforts, TAC focused in 2001 on forcing the government to provide antiretroviral drugs to pregnant HIV-positive women to prevent the child from contracting HIV at birth. It focused on the effect of HIV on babies and sought to guarantee that newborns wouldn't contract HIV. This strategy was an acknowledgment of the stigma that HIVpositive status still carried. The approach had succeeded in the United States, where HIV activists began by focusing on children like Ryan White—a boy from Indiana who contracted AIDS through a blood transfusion. Similarly, TAC argued that it would be absurd not to prevent newborn babies from contracting HIV. Nevertheless, the government argued that the medicine was too expensive, and the campaign responded by accusing the drug company that manufactured it of price gouging. Working with the Aids Law Project, TAC sued the government to compel them to provide treatment, and engaged in a series of actions and protests to take their case to the public. Young men and women with HIV began to get involved, and TAC began to lead a movement of poor black people who were living with HIV—a group that had not previously had the opportunity to express its rights. The work received considerable attention in the media, which put the treatment crisis in stark human terms.

TAC's work received considerable attention in the media, which put the treatment crisis in stark human terms.

This led to TAC's first important victory in 2002, just as Atlantic had begun funding its work, when the High Court determined that the government had to provide treatment for pregnant women with HIV to prevent the mother from transmitting the disease to her child. This was the beginning of a series of wins to ensure the right of all South Africans to proper health care.

The high cost of drugs was a significant obstacle to a national program to provide treatment for the millions of South Africans struggling with HIV. This put life-saving treatment out of reach for the vast number of citizens. It also made the drugs prohibitively expensive for the government, which couldn't afford to make the medicines part of a national treatment program.

In 2004, TAC launched a legal challenge against drug manufacturers through the government's Competition Commission, an anti-trust body designed to achieve equity and efficiency in the South African economy. The legal challenge was accompanied by a series of demonstrations, events, and media stories highlighting the excessive pricing practices of international pharmaceutical



TAC's advocacy efforts included forcing the government to provide antiretroviral drugs to pregnant, HIV-positive women to prevent them from passing the disease to their newborns.

companies. Rather than anger the commission, drug manufacturers agreed to issue generic licenses for a variety of medications. Such legal challenges would continue throughout the decade, leading to a series of concessions by pharmaceutical companies.

Political issues were turned into moral issues, through campaigns that captured the public's imagination and put a human face on those most affected by the national health crisis.

At the same time, after relentless lobbying by TAC and its partners, the government finally committed to creating a comprehensive treatment plan for people with HIV. By 2004, the government had administered its first round of antiretroviral treatments through its public health system, but the rollout was far too slow, and TAC began lobbying for a nationwide strategic plan. This plan would focus on the complete range of treatment designed to arrest the HIV/AIDS epidemic, including education, prevention, and treatment of people with HIV. This in turn required a strategy for procuring medicine, supply chain management, and a plan to train doctors and other medical professionals. By 2007, the plan had been completed, with substantial input of TAC experts. Once the strategy was approved, TAC kept up the pressure to ensure that the government took the necessary steps to implement it.

In each instance, TAC turned political issues into moral issues through campaigns that captured the public's imagination and put a human face on those most affected by the national health crisis. South Africa has a rich tradition of protest and civil disobedience that dates back to the apartheid era, and TAC made particularly good use of the approach. It conducted marches, hunger strikes, medical treatment strikes, sit-ins in ministers' offices, and many other forms of public protest. This approach proved to be highly effective. As Heywood notes, "Without an accompanying social mobilization, the use of the courts may deliver little more than pieces of paper, with a latent untapped potential."

South Africa has a rich tradition of protest and civil disobedience that dates back to the apartheid era, and TAC made particularly good use of the approach.

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TAC was sophisticated in using media to communicate with its various audiences—including its own members—about the goals of its actions as well as its plan to achieve those goals. TAC used Health-e News to communicate about the science of HIV to people living with HIV and to refute the claims of quacks, who were either interested in peddling one bogus remedy or another or who were otherwise doing the bidding of government deniers. It used the texting tool Whatsapp to communicate with its members and to help people report when clinics were not properly supplied with medicine, it used Twitter to communicate with journalists, and it relied on Facebook to take its message to the broader public.

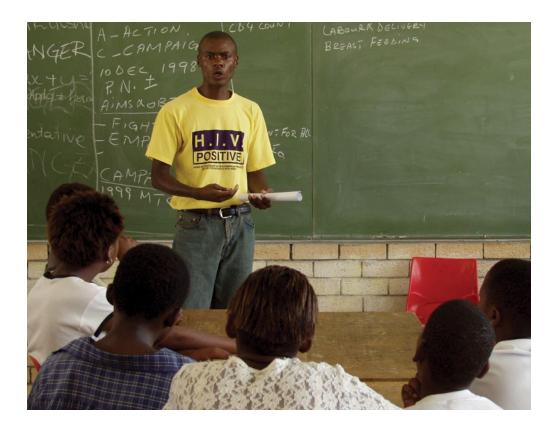
All of these tactics served to supplement the face-to-face work that the organization was already doing. As Marcus Low, TAC's head of Policy, Communications, and Research, told Barbara Klugman, "People think you don't have to organize because of social media, but the bread and butter is still [the] Saturday morning taxi ride to the meeting and sitting there for hours engaging the people."

#### TAC ADDRESSES ITS OBSTACLES TO SUCCESS

hen TAC began its work in 1998 (four years before its initial funding from Atlantic), it was facing a severe political headwind—it had to overcome the toxic rhetoric of the highest officials in the South African government, who simply denied that HIV causes AIDS. There was a lack of sufficient scientific evidence to counter the claims of AIDS denialists, who were able to create confusion about what the proper treatment should be. In cases like this, activists simply didn't have the overwhelming scientific evidence they needed to overcome the doubt that their opponents had sown.

Given the basic understanding of the disease that existed even in the late 1990s, the government's false claims about HIV were seen as ludicrous. There were other rational medical obstacles to overcome, however. Mbeki and his supporters frequently complained that antiretroviral drugs were highly toxic and dangerous. For many HIV patients, especially those who were in the late stages of AIDS, the drugs actually were dangerous. HIV treatment works best when the patient is still relatively healthy, but often patients couldn't obtain

When TAC began its work in 1998, it had to overcome the toxic rhetoric of the highest officials in the South African government, who simply denied that HIV causes AIDS.



A training session for members of TAC who had volunteered to participate in a community HIV/ AIDS education project While the obstacles were formidable, TAC felt that there was no excuse not to begin to build the system necessary to try to save the lives of millions of people

struggling

with HIV.

antiretroviral drugs until after the disease had progressed, and they inevitably died. This reinforced the views of denialists. The government also used the existing skepticism of the West, where the drugs were manufactured, to sow doubt about the motivations of outsiders who claimed to offer better treatments than traditional healers. They even suggested that the West was trying to poison South Africans. After generations behind what might be called an iron curtain of isolation, South Africans didn't know who or what to believe.

Mbeki did make an important point in his defense of the government's position, however. He observed that the government was simply unable to provide an effective treatment regimen, given a fragile public health system and staff shortages. The HIV pandemic was ravaging the poorest and most vulnerable communities. At the time, patients needed to take a drug cocktail that consisted of 10–15 medications each day—all of which should be administered to a patient who had eaten properly. Who would distribute the medication and monitor treatment? What other illnesses would be neglected if the country focused on HIV? Mbeki suggested that the combination of South Africa's poverty and the challenge of trying to sustain a full program to provide antiretrovirals and treat millions of patients would collapse the fragile public health system.

While these were formidable obstacles, TAC felt that there was nevertheless no excuse not to begin to build the system necessary to try to save the lives of millions of people struggling with HIV. TAC's goal was to compel the government to create a national action plan and then administer that plan regardless of the cost or complexity.

TAC had another set of challenges that were organizational, not medical, and that are common to a vast number of nonprofit institutions. TAC's leaders came to the work as activists, not as nonprofit professionals, and they had to learn as they went—particularly when it came to fundraising. Many of TAC's funders recognized this and provided funds to address so-called capacity needs, like financial planning, fundraising, and organizational development, among others. However, a number of international donors had different ideas about the kind of organization TAC should be, steering them toward providing health care services—an area in which TAC had insufficient experience—which derailed its advocacy efforts. Funders can also make it difficult for their grantees to succeed by requiring their own customized monitoring systems

and proposals that are more complicated than they need to be. As Barbara Klugman observes, "What they actually needed was to sit with the funders and discuss whether they should take all this money." While TAC eventually realized that it needed to return to its core strengths, it wasted time and effort trying to figure this out.

TAC's leaders came to the work as activists, not as nonprofit professionals, and they had to learn as they went—particularly when it came to fundraising. Consistent funding was a challenge.

Finally, consistent funding was a challenge. While there were many international donors funding HIV/AIDS issues in South Africa during the period that Atlantic was supporting TAC and its partners, the funders would have benefited from better coordination. The funders included: The Ford Foundation, The Open Society Institute, Bread for the World, the British Department for International Development, the German government, and the Global Fund to Fight AIDS, Tuberculosis, and Malaria, among others. TAC would have donor meetings several times a year, but there was no systematic collaboration among the funders. Perhaps because of this, some funders were more directive than others, and TAC could not rely on consistent funding levels over time.

#### **OUTCOMES: A SERIES OF IMPORTANT VICTORIES**

AC and its allies achieved a series of stunning victories since they began advocating on behalf of South Africans in the late 1990s. While the sheer volume of victories is too great to list here, there are a number that bear noting.

The Treatment Action Campaign's activism helped push the government to dramatically increase public spending on HIV/AIDS: Expenditures on treatment and prevention skyrocketed from \$168 million in 2003 to nearly \$2.3 billion in 2014. TAC and its allies were also successful in pressuring pharmaceutical companies to slash the price of antiretroviral medications

from \$10,439 per person annually in 2000 to \$182 annually by May 2005, and forced the government to provide those drugs to people who could not afford to pay for them.

The effect of these changes has been dramatic. The transmission of HIV from infected mothers to their children dropped from 30 percent in 2006 to 1.5 percent in 2016. In the summer of 2016, South Africa's Minister of Health, Aaron Motsoaledi, committed the government to completely eliminating HIV in all people under 20 years old by 2030.

By 2016, more than three million South Africans were receiving antiretroviral treatment, which UNAIDS estimates saves 300,000 lives each year. Moreover, the number of deaths from HIV/AIDS fell by more than half from 2007 to 2015.

Finally, Atlantic grantees have succeeded in helping to change the way South Africans think about HIV/AIDS, the people who have it, and how to treat it. Where government officials once recommended lemon juice and garlic as a treatment, now the government spends billions of dollars a year to use the best science possible to attempt to stem the epidemic.

### ACTIVISM HELPED PUSH THE GOVERNMENT TO DRAMATICALLY INCREASE PUBLIC SPENDING ON HIV/AIDS.





Between 2008 and 2012, annual HIV testing increased from an estimated 19.9 percent to 37.5 percent among men, and from 28.7 percent to 52.6 percent among women.

The number of people receiving antiretroviral treatment rose sharply. By 2016, more than three million South Africans

were receiving antiretroviral treatment, which UNAIDS estimates saves 300,000 lives each year.

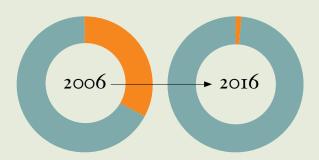
#### LESSONS FOR THE FIELD

aking on the problem of the HIV/AIDS epidemic may be considered one of the great public health challenges of the past two decades. While there is a long way to go before anyone would declare victory, it is clear that TAC and its partners have accomplished a great deal, and many hundreds of thousands of lives have been saved as a result of their efforts. Here are just a few lessons that Atlantic has taken away from this work.

#### 1. Funding lobbying was extremely important

Funding from Atlantic helped TAC, Section 27, and the Southern African HIV Clinicians Society to lobby the South African government for specific pieces of legislation. The foundation's support also funded those groups to help write legislation, and even helped to write the national strategic plan on HIV/AIDS treatment.

SOUTH AFRICA HAS REACHED A POINT WHERE THE ELIMINATION OF PEDIATRIC HIV IS POSSIBLE.



The transmission of HIV from infected mothers to their children dropped from 30 percent in 2006 to 1.5 percent in 2016.

DEATHS FROM HIV/AIDS HAVE FALLEN BY MORE THAN HALF.



Atlantic grantees have succeeded in helping to change the way South Africans think about HIV/AIDS, the people who have it, and how to treat it. The number of deaths from HIV/AIDS has fallen by more than half from 2007 to 2015.



Children play at a community nursery for disadvantaged youth whose parents are HIV positive. A few of the children are also HIV positive but are encouraged to lead normal lives.

#### 2. Both funders and grantees needed to be flexible and opportunistic

As Zola Madikizela, who was the program executive in charge of Atlantic's public health program in South Africa, notes, the AIDS epidemic was highly unpredictable, and any strategy would have to be quite adaptable. For example, when TAC began advocating for the government to provide treatment for pregnant mothers with HIV, they had no intention to take the government to court, but it was soon clear that this was a wise approach. Atlantic had provided institutional support to TAC, which could quickly adapt its work to the new strategy. But Atlantic was also flexible enough in its thinking to realize that TAC needed to be able to take advantage of opportunities as they arose.

Some leaders in the movement were attacked, beaten, or even killed. Others found themselves subject to government investigations.

#### 3. Alliance building was critical

In most areas of social change, it takes a variety of organizations working together to achieve success. The HIV/AIDS challenge was no exception. As Madikizela observes, "TAC would not have achieved what it achieved alone. They needed other strong, credible organizations—each of which played a very specific role—in order to achieve each success along the way."

#### 4. There is no substitute for leadership

It was essential to enable leaders on the ground to design and implement the strategy as they saw fit. Says Madikizela: "While we were in regular communication with TAC about the strategy, we had complete confidence in TAC's leaders to design and implement it. They were the essential pillars for pushing for access to antiretroviral treatment and to ensure access to all citizens, regardless of where they lived, how much money they had, or the color of their skin." Moreover, the leaders in the HIV/AIDS struggle were notable not only for their strategic vision but for their personal commitment to the work. They were subjected to near-constant harassment, character assassination, and violence. Some leaders in the movement were attacked, beaten, or even killed. Others found themselves subject to government investigations. They responded by engaging in hunger strikes, peaceful protest, and even refusing to take their medication. More than a few died. "Funding wasn't enough," adds Madikizela. "We needed strong, resolute leaders. And fortunately for the people of South Africa and for generations to come, we found them."

#### CONCLUSION

he tragedy of HIV and AIDS in South Africa is all the more devastating because it represents as much a failure of leadership as a failure of science. While there is no cure yet for HIV, or an effective vaccine to prevent it, people are now living productive lives for decades with the virus, and every day brings with it a realistic hope that the solution to the problem is within our reach. For many years in South Africa, however, that hope seemed an impossibility. While other countries were providing comprehensive care for their people, South Africans were denied. The work of the Treatment Action Campaign and its partners helped turn that around. This work centered on the need to reduce the stigma of HIV across the country and put pressure on the government to provide effective treatment for everyone who needed it.

"We needed strong, resolute leaders. And fortunately for the people of South Africa and for generations to come, we found them."

Zola Madikizela, former program executive for Atlantic's Population Health program in South Africa

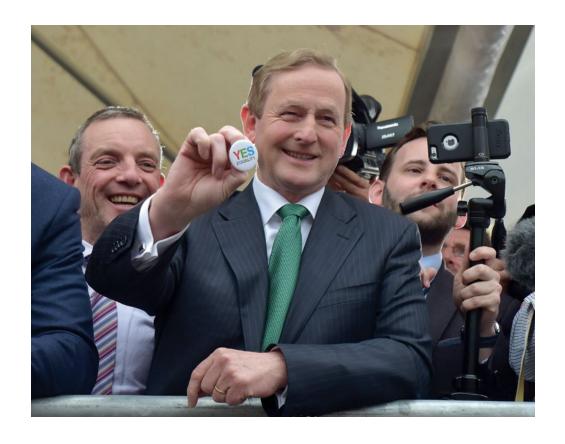
The approach was comprehensive—the movement relied on strong leaders, tireless lawyers, passionate activists, smart scientists, dedicated health professionals, and brilliant communicators. These extraordinary people were able to change how South Africa's citizens and its government felt about this disease in ways that few other campaigns can claim. The greatest challenge now is ensuring universal coverage in an effective and efficient health system that provides equal and equitable health care to all citizens.

South Africa can now be justly proud of its efforts to tackle the tragedy of HIV and AIDS, but it is clear that there is much more work to be done. The socio-economic rights enshrined in the South African constitution would remain just words on paper were it not for active advocacy by social movements like TAC, which turned them into life-saving policies and programs. Thanks to social change activists like the Treatment Action Campaign, they can be justified in their hope for a better future.

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This small, overwhelmingly Catholic country has emerged as among the most progressive nations on earth in terms of how it treats LGBT people. YES

# Marriage Equality's Path to Victory in Ireland

he Atlantic Philanthropies had a long interest in helping build and sustain organizations at the forefront of advancing and protecting people's human rights, particularly for those most marginalized or unfairly disadvantaged in places where the foundation had a presence. As part of that work in the Republic of Ireland, Atlantic made substantial investments from 2004 to 2013 in organizations seeking to change laws and attitudes so that lesbian, gay, bisexual, and transgender (LGBT) people could enjoy the same rights and protections as their fellow citizens. Among the outcomes of their advocacy was the 2010 passage of a civil partnership law.

Among the outcomes of Atlantic advocacy was the 2010 passage of a civil partnership law in Ireland.

Five years later, Irish voters took the historic step of approving a ballot referendum that legalized marriage for all people regardless of sexual orientation. Atlantic did not contribute any funds to the marriage equality campaign. As the following summary shows, for longtime Atlantic grantees who carried out the successful campaign, their work represented a natural evolution of what the foundation had originally funded them to do.

#### TRACING THE MARRIAGE EQUALITY VICTORY BACK TO ITS ROOTS

In May 2015, Irish voters overwhelmingly voted to add 17 words to their constitution, thus allowing marriage "by two persons without distinction as to their sex." In doing so, Ireland became the first country to legalize

The measure legalizing samesex marriage was approved with over 60 percent of the vote. marriage for same-sex couples by popular vote. The measure was approved with over 60 percent of the vote.

Ireland has come a long way in a very short time in granting civil rights to lesbian, gay, bisexual, and transgender (LGBT) people. This small, overwhelmingly Catholic country has emerged as one of the most progressive nations on earth in terms of how it treats LGBT people.

As recently as 1993, there were laws on the books that criminalized homosexuality. A small but powerful movement to advance LGBT rights helped overturn those laws, and by 2000, Ireland passed legislation to outlaw discrimination on the basis of sexual orientation in the workplace, in how goods and services were provided to LGBT people, and in other public settings.

In 2010, the Irish government passed a law establishing legal civil partnership for same-sex couples, which included a host of protections involving taxation, social welfare, and rights of survivorship. The law notably did not establish rights for non-biological parents of children in same-sex relationships, for which it was bitterly condemned by some in the LGBT community, although others felt that the civil partnership law was a necessary step along the way. It would take the 2015 referendum to fully realize marriage equality.

In May 2015, Irish voters overwhelmingly voted to add the following 17 words to their constitution: "Marriage may be contracted in accordance with law by two persons without distinction as to their sex."

The May 2015 victory was followed closely by a law that requires the legal recognition of a person's gender of choice based on self-determination—making Ireland only the fourth country in the world at the time to adopt that approach.

How did Ireland come so far, so fast? How did a nation that viewed being gay go a criminal offense become a nation embracing the right of gay people to marry?

Many would say that the campaign for marriage equality in Ireland began in earnest in 2004 when two women living in Ireland—American-born Katherine Zappone and Irish-born Ann Louise Gilligan—sought to have their Canadian marriage recognized in Ireland so they could file a joint tax return there. The case eventually rose to the Irish Supreme Court and was rejected on the ground that the Court interpreted the Irish constitution to mean that same-sex couples could not marry.

Zappone and Gilligan helped provide momentum to a movement that had been gaining traction, but which was still primarily staffed by grassroots volunteers. These activists had made advances in areas like health, employment, and housing, but fundamental rights, like marriage and gender identity, seemed very far off.

#### **GRANTMAKING STRATEGY**

t was against that backdrop that Atlantic launched an effort to protect and advance the rights of LGBT people in Ireland through its Reconciliation & Human Rights Program.

From 2004 to 2011, Atlantic made \$8.8 million in grants, primarily to four organizations. These organizations offered a variety of voices with somewhat different points of view about how to achieve full rights for LGBT people. As Mary Sutton, Atlantic's Country Director for the Republic of Ireland, notes, "This is a classic case where there were a number of grantees working on an issue, but there were conflicting views about the most effective approach. We didn't favor one over the other, and it wasn't obvious beforehand that one strategy would win over the other."

The organizations that Atlantic supported were:

#### **Gay and Lesbian Equality Network (GLEN)**

GLEN\* was the only existing national organization focusing on LGBT issues at the time and had been operating through volunteer efforts since 1988. In 2004, GLEN was able to significantly expand its professional staff due to

In 2010, the Irish government passed a law establishing legal civil partnership for same-sex couples.

<sup>\*</sup>GLEN ceased operations in May 2017.

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a multi-year investment from Atlantic. GLEN had excellent relationships with many political leaders and believed it was possible to influence what it called the "moveable middle." It also supported the civil partnership law as an important interim step toward marriage equality, which put it at odds with other LGBT groups.

It wasn't obvious beforehand that one strategy would win over the other.

#### **Marriage Equality**

The organization called Marriage Equality\* was created in 2008 as a follow-up to an initiative launched in 2005 to provide advocacy in support of Zappone and Gilligan. Its grassroots efforts incorporated outreach in rural communities in which LGBT people advocated directly to their elected officials in a campaign called "Out to your TD."\*\* The organization focused on the goal of full marriage rights for all and believed that the civil partnership law would slow progress toward full marriage rights.

#### **Transgender Equality Network Ireland (TENI)**

TENI was launched in 2008, and Atlantic made a significant investment in 2009 at a time when Ireland did not offer any legal recognition or provide an opportunity to transgender people to amend their birth certificates. Moreover, there were no government policies to protect transgender people, nor were they expressly protected under any equality or hate crime legislation.

#### **LGBT Diversity**

Recognizing that LGBT people living in rural areas can be particularly isolated, Atlantic funded a strategy to address the particular concerns and needs of LGBT people living outside of Dublin, and to advance legal protections and social acceptance in these regions. This approach would pay off in the referendum campaign, which paid particular attention to rural communities.

While Atlantic did not set a goal of achieving marriage equality, it helped advocates lay the groundwork to achieve that in the future.

<sup>\*</sup>In this paper, to attempt to avoid confusion, when we refer to the organization Marriage Equality, we will capitalize the phrase. When we refer to the concept of marriage equality, we will use lower case.

<sup>\*\*</sup>The TD is the Irish equivalent to a Member of Parliament or Member of Congress.



Registering likely voters and ensuring they cast a ballot was an important part of the strategy.

#### **GOALS**

tlantic's grantmaking goals were to: deliver legislative change on same-sex partnerships and transgender identity; encourage changes in mainstream services to incorporate the needs of LGBT people; ensure that the organizations that served LGBT communities could be sustained over time; and increase cohesiveness within and across LGBT communities in Ireland.

Atlantic did not identify as a goal achieving marriage equality, although it is clear that by identifying the preconditions for legally mandated equal treatment for LGBT people in Ireland such an outcome became possible. To achieve these goals, Atlantic understood the value of providing core support for organizations that were well-positioned to succeed.

"A culture that encourages respect, values opinions, celebrates differences, and promotes positive relationships is better for all."

Ruarí Quinn, former Minister for Education and Skills

Atlantic understood the value of providing core support for organizations that were well-positioned to succeed

Atlantic placed a particular focus on providing long-term general operating support for the four organizations. While Atlantic required their grantees to develop strategic plans and clear theories of change, they also gave grantees considerable leeway to do their own planning and implementation and make mid-course corrections as they saw fit. "That core support gave us the capacity we needed to develop our strategy," said Brian Sheehan, who served as executive director of GLEN from 2007 to 2016. "The luxury was that we never had to explain our strategy, because we had built a relationship that both parties believed would deliver change."

During the period from 2004 to 2011, Atlantic grantees achieved a string of victories.

GLEN worked with the Irish Ministry for Education and Skills to create the ministry's first Action Plan on Bullying, which placed a particular emphasis on the problem of homophobic bullying in publicly funded schools, most of which are under the control of the Catholic Church. In releasing the plan,

Ruarí Quinn, then Minister for Education and Skills, noted, "A culture that encourages respect, values opinions, celebrates differences, and promotes positive relationships is better for all." The marriage equality movement would later draw directly on this affirmative approach during its campaign. GLEN worked with the Psychological Society of Ireland and the Irish College of Psychiatry to ensure that medical professionals working with LGBT people would have the training they needed to support their patients effectively. TENI worked with the Health Service Executive to provide medical services that were specifically designed to help transgender people. Atlantic grantees worked with trade unions to improve conditions for LGBT people in the workplace, they helped secure constitutional rights of parents and children in LGBT families, they advanced legislation that would ultimately lead to landmark gender recognition, and they were essential in passing a civil partnership law.

In November 2013, the government announced that it would hold a referendum in spring of 2015. The national campaign for marriage equality was underway.

#### THE CAMPAIGN TO ACHIEVE MARRIAGE EQUALITY

hese achievements, while extremely important in themselves, were precursors to what many in Ireland consider to be a signal achievement—allowing all citizens in Ireland to marry regardless of their gender.

#### Timeline

The path to permitting marriage for all in Ireland began in earnest in 2011, when a newly formed coalition of the center-right Fine Gael Party and the center-left Labour Party called for a constitutional convention that would consider a number of changes to the Irish constitution, one of which was marriage equality. Modeled on an earlier, Atlantic-funded experiment in deliberative democracy called We The Citizens, the convention was finally held in April of 2013. As part of the deliberation process, GLEN, Marriage Equality, and the Irish Council for Civil Liberties (known as ICCL) were given 30 minutes among them to make presentations in support of the proposition, which was broadcast live on national television. The convention was made up of 66 randomly selected members of the public, 33 elected officials, and a convention chairperson. After a total of three days of presentations, debate, and deliberation, the convention voted 79–21 to ask the government to

Many nonprofits will take months, if not longer, to design a strategic plan. There was no time for that. put a referendum to the public that would change the constitution to allow for same-sex couples to marry. The next step required the government to schedule a national referendum on the issue. In November 2013, the government announced that it would hold a referendum in spring of 2015. The national campaign for marriage equality was underway. Under Irish law, official campaign activities, in which participants could distribute literature, display posters, and conduct other forms of classic campaigning, were limited to a short period preceding the actual vote. Nevertheless, the pre-campaign was every bit as important as the official campaign.

#### **Campaign Strategy**

Most communications professionals will discuss the basics of communications strategy in much the same way—begin with goals, determine your decision makers and the people they listen to, create messages that speak to your audience's values, and design a set of tactics to deliver those messages as efficiently as possible. Political campaigns, however, often don't have the luxury to do the kind of strategic planning that usually goes into such communications campaigns. Instead, they can be forced to respond to a variety of factors beyond their control, like the vagaries of the election calendar, for example.

#### 2010

Passage of a civil partnership law.

#### 2011

A newly formed coalition of the center-right Fine Gael Party and the center-left Labour Party called for a constitutional convention that would consider marriage equality.

#### 2013

Modeled on an earlier, Atlantic-funded, experiment in deliberative democracy, the convention was finally held in April of 2013.

After a total of three days of presentations, debate, and deliberation, the convention voted to ask the Government to put a referendum to the public that would change the constitution to allow for same-sex couples to marry.

#### 2013

In November 2013, the government announced that it would hold a referendum in spring of 2015.

#### 2014

Atlantic Philanthropies and its partners worked quickly to set up a successful brand and campaign strategy, including a get-out-thevote drive and a critical social media plan.

#### 2015

On May 22, the yes vote won in 25 out of 26 of Ireland's counties, with a total of 62.1 percent in favor.

A marriage equality law was added to Ireland's constitution.

Once the government announced that it intended to schedule a national referendum, the pro-marriage forces had to act quickly. GLEN and Marriage Equality, which were on opposite sides of the civil unions legislation, realized that they would need to conduct a unified campaign. With ICCL joining as well, the groups began meeting weekly to plot strategy.

"Our communications started with values. Our research told us that the electorate believed in love, equality, fairness, generosity, and being inclusive. These were what it meant to be Irish."

Grainne Healy, co-director of the YES campaign

The three groups set up a steering committee to put the campaign in motion. They began their campaign with a branding effort. Most conventional communications efforts begin with strategy and then start working on the brand—the names, messages, and design elements of a campaign. But political efforts often force the strategist's hand. The marriage equality proponents needed to create their identity in order to launch their campaign. They quickly coalesced around a simple, positive theme—"Yes Equality." The group decided to focus on the collective values of Irish people, not on sexual orientation. Their name and their message would be inclusive and affirmative.

As the partners plotted their strategy in summer of 2014, their first task was to maximize the vote. To be eligible to vote in the following year's referendum, voters would need to register by late November. One potentially powerful asset was young people, whom research showed were overwhelmingly in favor of marriage. The problem was that they were extremely infrequent voters. Nevertheless, the campaign sought to register as many young people as they could. Later, they would use the energy generated during the registration phase to drive up turnout among this audience.

The campaign quickly built a set of online organizing tools, focusing on Facebook and Twitter, and created a variety of videos that they encouraged their online audiences to share with their friends. They enlisted the support of celebrities to create a set of messages that would appeal to young audiences. In addition, they created a robust merchandising effort, setting up an

One potentially powerful asset was young people, whom research showed were overwhelmingly in favor of marriage. The campaign sought to help the Irish people understand that gay people were fundamentally no different from any other Irish citizens.

online store and a pop-up shop in Dublin. By the end of the campaign they would sell 6,500 t-shirts, 2,300 tote bags, and 800 jackets, and they would distribute more than 500,000 campaign badges.

Even though they were moving quickly to register voters, they had not yet found their voice. They had a name—Yes Equality—which was positive and inclusive, but they had not yet coalesced around their narrative.

The answer came in the most unlikely of places. A colleague had spotted a young woman in a news story about the Scottish independence referendum, which was being held in fall of 2014. The woman held a sign that read, "I'm voting yes, ask me why." Campaign organizers realized that this was the approach they were looking for. As Grainne Healy, Brian Sheehan, and Noel Whelan note in their book *Ireland Says Yes*, this was not just a slogan, it was a strategy, and at the center of their strategy was tone.

#### **Values and Tone**

As co-director of the Yes campaign, Healy observed, "Our communications started with values. Our research told us that the electorate believed in love, equality, fairness, generosity, and being inclusive. These were what it meant to be Irish." The campaign agreed at the very beginning to commit to a non-confrontational approach in which Yes proponents engaged others in conversations that were productive and positive. If they saw that their supporters were engaging in negative campaigning or using social media to attack their opponents, they would contact those supporters and request that the posts be removed.



"We understood how Irish people absorb change," said co-campaign director Brian Sheehan. "We never lectured and we never alienated. We understood that change happens progressively."

Yes proponents sought to find areas of agreement with those who had not yet made up their minds about how to vote. As Healy observed, "The wonderful thing about putting out those values is that it's what people want to be. They want to come and be part of that."

With a brand and a commitment to a way of expressing that brand, the group still knew that, to succeed, they would need a clear set of goals and a plan to carry them out. In very short order, the group began work on a strategy. Again, many nonprofits will take months, if not longer, to design a strategic plan. There was no time for that.

"We never lectured and we never alienated.
We understood that change happens progressively."

Brian Sheehan, YES campaign co-director

#### Goals

Despite the compressed time period of the campaign, the partners were quickly able to create a campaign strategy that would prove successful. The strategy of the campaign to win over a majority of Irish voters was, according to Sheehan, to "make being gay unremarkable." To do this, the campaign sought to help the Irish people understand that gay people were fundamentally no different from any other Irish citizens, and equality supporters sought to diffuse the potential conflict that differences around sexual orientation might create.

Sheehan explained that the electoral strategy of the campaign was to "move the moveable middle." The campaign believed that people's fear of change wasn't necessarily due to hostility to lesbian and gay people, but simply reflected their concerns about the unknown. Thus, the campaign set out to explain how a yes vote would be good for all of Ireland.

#### **Audiences**

During the run-up to the announcement of the election, the campaign conducted audience research, which helped drive their strategy. While young people were strongly in favor of marriage equality, the campaign realized that it could not rely on young voters.

Women aged 40–65 were perhaps the most likely yes voters. They were strongly influenced by their children, they were reliable voters, and the campaign was confident that they would be an important anchor. Grandparents were also likely supporters for much the same reason—they were supportive of their grandchildren and would be sympathetic to them. (The campaign's #RingYourGranny social media campaign took advantage of the connection between the generations and proved highly successful.)

Men aged 40–65 were seen as very soft yes voters, but research showed that they were susceptible to the no argument. Thus, the campaign sought to find messengers, like sports stars, who would appeal to this demographic.

If the campaign could win a significant number of these voters, they felt confident that they would win the election. Thus, they determined that they would not waste their time on voters that were solidly in opposition.

#### Messages

The campaign's introductory message was more about tone than about any particular audience. The campaign was kicked off with a billboard that did not feature photos of its target audience or offer testimonials. In fact, it barely felt like a political advertisement at all. It simply read:



The messaging was relentlessly positive and focused on the voices of people who explained why they were voting yes. As Sheehan noted, "We knew that the frame of equal citizenship captured people. They cared about fairness and equality." Thus, the campaign focused on these positive messages.

The messages were personal and never told anyone how to vote. Instead, the messenger simply explained why he or she was voting yes.

The campaign was effective at using messengers who they knew would speak to the values of the various audiences that they had identified as essential to victory.

Research showed that the most effective messengers were predominantly straight parents, grandparents, and other members of the community who saw the referendum as an opportunity to promote fairness. As Healy points out, "We had spent a lot of time previously doing visibility about LGBT couples. But the research was clear that we needed to show LGBT people embedded in their families. Our ads would show large, smiling families together, and it was impossible to know who the lesbian was."

For example, one campaign ad depicting a mother and her children, read: "Our family is based on love, respect and acceptance. We've had four weddings so far, and I'd really like Anna to have the same opportunities as the rest of my family. She's equal in my eyes." The ad pointedly doesn't identify which daughter is Anna.

Another ad designed to connect with mothers highlighted a typical Irish mother named Maureen Gowran, who wrote, "I raised five children who are all equal in my eyes. I'd like them to all have the same opportunity to marry the person they love."

To appeal to grandparents, one flyer featured Madeleine Connelly, who explained, "I'm 90. I have 14 children, 25 grandchildren, and 4 great-grandchildren. I'm a practicing Catholic. I wouldn't miss Mass for anything. God made us all and he made us all equal. Everybody should have the opportunity to get married, and gay and lesbian people should have been free to

To shore up support with men aged 40–65, the campaign enlisted support from a wide range of Irish sports figures.



This campaign ad read: Our family is based on love, respect and acceptance. We've had four weddings so far, and I'd really like Anna to have the same opportunities as the rest of my family. She's equal in my eyes.

get married years ago. Now is a great opportunity for everybody to get out and vote Yes. I think it's very important."

The group stuck with their strategy, tone, and talking points.

To shore up support with men aged 40–65, the campaign enlisted support from a wide range of Irish sports figures. One such message, from Donegal soccer star Eamon McGee, read, "I'm voting yes. If I'm lucky enough to have a child, he or she might be gay and I'd like them to be able to marry."

Irish comedian Brendan O'Carroll, who plays the title character on the popular BBC comedy *Mrs. Brown's Boys*, recorded a short video encouraging a yes vote. O'Carroll delivered his message in drag as the foul-mouthed Irish matriarch of the show. "What's all the fecking fuss?" O'Carroll asked. The PSA was also turned into posters, which were distributed across Ireland.

The campaign was effective at using messengers who they knew would speak to the values of the various audiences that they had identified as essential to victory.

These messengers were predominantly straight people who understood how equality affected their lives. The messages were personal and never told anyone how to vote. Instead, the messenger simply explained why he or she was voting yes.

Sheehan recounts that he felt confident that marriage equality would pass when he asked Vivian Sheehan (no relation), an 85-year-old man who had grown up in rural Ireland, if he'd be willing to wear the 500,000th Yes Equality campaign badge. The man replied, "I'd be very honored to accept."

#### **Tactics**

Just 10 days after the group began meeting formally, it created a one-page strategy that would guide all activities during the course of the campaign. The strategy had three phases:

The first phase focused on initiating conversations that encouraged people to speak with others about the issue of marriage equality, starting with the concept of "I'm voting yes, ask me why." This would include neighborhood

The campaign set up 70
Yes Equality groups across the country, attending meetings, doing local media, and knocking on doors.

events, engaging people at campaign tables on the street, and in other large gatherings. The point was to get people talking about the issue in positive, constructive ways.

The second stage was what they referred to as "full engagement," and would include national canvassing, national and local media debates and a bus tour through the 26 counties of Ireland, and would feature sending mail to every mailbox in Ireland (while the whole of Ireland has a population that is only somewhat larger than the city of Los Angeles, this is nevertheless no easy task).

The final phase, which they called the "closing argument," would focus on getting out the vote, and would emphasize the arguments (as yet to be determined) that had worked well during the previous phases.

## The campaign created a one-page strategy that guided all activities.

The group stuck with their strategy, tone, and talking points. They focused on the audiences they needed to persuade and didn't attempt to win over voters that they considered unwinnable. As their memo pointed out, "Everything else is not our work."

#### Inside/Outside Campaign

This was not solely a grassroots movement, however. Indeed, it was the political marriage of Labour and Fine Gael that helped push for a referendum in the first place. Taking advantage of deep relationships with elected officials, the campaign lobbied forcefully in the Irish legislature for the support of as many members as possible. This aligned with a grassroots strategy that paid a great deal of attention to rural communities. The campaign set up 70 Yes Equality groups across the country, attending meetings, doing local media, and knocking on doors. One such group visited 142,000 households. This work built on efforts that Marriage Equality had begun with its "Out to your TD" campaign, in which gay and lesbian constituents were encouraged to meet personally with their elected officials and explain why they

should support civil marriage. Similarly, many staff members from GLEN had been born and raised outside of Dublin and were able to call upon their rural upbringing to create messages that connected with a cross section of Irish voters.

#### Social media

Given relatively limited resources, the campaign had to be efficient, and social media provided a huge opportunity to connect personally to a wide audience to enlist others in communicating their message. Given that support was highest among people who were most active in social media—voters under 35—the campaign took advantage of the opportunities that social media presented. Yet, as Healy acknowledged, "Our biggest challenge was how to get 'clicktivists' to become activists."

The campaign's social media efforts were extremely successful. The campaign was very effective in using hashtags to organize its messaging. The hashtag #marref produced a half million tweets in Twitter, which generated more than one billion impressions. There were scores of hashtag campaigns, including #hometovote, which encouraged Irish supporters from around the globe to return home to cast their vote. By one estimate, 30,000 young people came home to Ireland to vote. The #RingYourGranny campaign encouraged young people to ask their grandparents to cast a yes vote. Even then-Prime Minister Enda Kenny used social media to advocate for a yes vote:

The campaign's social media efforts were extremely successful.



The campaign's social media efforts were seen by experts as an essential element of the campaign's success.

#### **OBSTACLES**

he campaign was not without its challenges. Perhaps the most serious problem was a regular lack of funding. As we have noted, the campaign received no funds from Atlantic, and thus had to spend time and effort raising funds to keep afloat. As Healy notes, strict regulations about political fundraising in Ireland made it hard to finance the campaign. She adds that, unlike other countries, particularly the United States, there is no culture for raising political funds from the public. On three separate occasions, the campaign had to resort to online crowdfunding to raise money from the public.

On three separate occasions, the campaign had to resort to online crowdfunding to raise money from the public.

Perhaps even more important than money was the question of how the two primary organizations, GLEN and Marriage Equality, would work together. Given that these were the two most prominent gay rights organizations in the country, it is hard to see how the campaign would succeed without them collaborating closely. Yet in 2010, the groups were on opposite sides of legislation to make civil unions legal. GLEN felt that it was a necessary first step to civil marriage, but Marriage Equality felt that the legislation did not go far enough and would dilute enthusiasm for marriage. The dispute left lasting



scars that would have to be addressed in order for the campaign to succeed. As the campaign kicked off, Brian Sheehan and Grainne Healy reconciled their differences and became co-directors of the campaign. Indeed, they worked so closely together (even working at side-by-side desks in the middle of the campaign office) that they came to be known collectively as "Brainne."

#### LESSONS FOR THE FIELD

he Irish campaign was very much a product of its time and place. The Yes Equality team ran a relentlessly positive campaign, which might be considered almost quaint in the modern political era. Yet there are without question a number of transferable lessons that we can take away from their victory.

1. Strategy is everything. The campaign set out a clear strategy and it was extremely disciplined in sticking to it. Central to that strategy was a commitment to running a positive campaign. This was established in part because the Yes campaign believed that they were more likely to move the so-called



- "moveable middle" this way, but they also believed that a contentious election could cause problems in the future. As Sheehan observed, "How you win is as important as what you win. Never leave losers because you don't want your gains to be reversed."
- **2. Test your assumptions.** As Healy explained, "Do your research, do your research, do your research. Find out who's with you and who's against you. Why are they against you? What are their issues?" As a result of the campaign's extensive research, it identified their key audiences as well as the messengers to whom those audiences were most responsive. As Healy noted, "We targeted the million in the middle, and we ended up with 1.7 million."
- **3. Only do what you can do.** The short strategy that the team drew up just after the campaign's launch is instructive, and the part that seems to stand out is, "Everything else is not our work." They were able to maximize their advantages and minimize disadvantages. As GLEN's former co-chair Kieran Rose explained, "If you're campaigning on a minority issue, you must win a majority. To do this, you have to consolidate your supporters, win over the doubters, and pacify those who are opposed." The campaign followed this approach closely, by trying to turn out young people, moving mothers and grandmothers, and refusing to argue with the opposition.
- "If you're campaigning on a minority issue, you must win a majority. To do this, you have to consolidate your supporters, win over the doubters, and pacify those who are opposed."

Kieran Rose, former GLEN co-chair

#### CONCLUSION

he result was an overwhelming victory for the Marriage Equality campaign. The yes vote won 25 out of 26 of Ireland's counties, with a total of 62.1 percent in favor. Ireland became the first country to pass a law on same-sex marriage by national referendum, and the campaign for marriage equality is seen as one of the most successful social change campaigns in modern history.

As Sheehan notes, "We had run a campaign that had reached the hearts and minds of the Irish people. It allowed people to be their better selves and vote yes. We set out to change the constitution, but in doing that we changed a country."

Ireland became the first country to pass a law on same-sex marriage by national referendum, and the campaign for marriage equality is seen as one of the most successful social change campaigns in modern history.



Yes supporters react at Dublin Castle, Ireland, Saturday, May 23, 2015.

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"We didn't pick this issue—young people did. We were just smart enough to listen."

Kavitha Mediratta, former Atlantic program executive

HOW DO YOU MAKE AN INVISIBLE PROBLEM VISIBLE?

# Advocacy Strategy for School Discipline Reform

etween 2009 and 2016, Atlantic invested \$47 million in efforts aimed at ending unfair and excessively punitive discipline policies in U.S. schools that put many students—especially children of color—at risk of ending up on a pathway to prison. Atlantic focused on raising awareness of the problem of excessive expulsions and suspensions and advocated for alternative practices that would keep vulnerable children in school and on track to graduation and college. An evaluation conducted by Philliber Research & Evaluation for Atlantic found that the foundation's reform efforts "experienced success beyond the initial hopes."

In 2009, as Atlantic was exploring work to undertake in its final years of grantmaking, the problem of unfair and excessively punitive school didn't automatically present itself as an obvious choice for the foundation. For one, the problem was little-known or understood, and not yet seen by many as a major issue. In addition, policies about school discipline are largely decided by school districts, and there are more than 14,000 in the country. Attempting to change policies in so many venues seemed like a tall order, especially for a foundation with only a limited amount of time to accomplish so much.

An evaluation found that the foundation's reform efforts "experienced success beyond the initial hopes."

If successful, the campaign would keep vulnerable children in school and on track to high school graduation and college, rather than on the path to prison.

Finally, conditions were not particularly conducive to success. In late 2009, the country was caught up in a get-tough policy toward school discipline. A decade and a half earlier, the U.S. Congress had passed the Federal Gun-Free Schools Act of 1994, which required schools that received federal funds to expel any student for at least one year if they were found in possession of a gun. This so-called "zero-tolerance" approach to school discipline might seem on its face rational, given the obvious danger presented by guns in school. The concept of zero tolerance took off far beyond its apparent original intent, however. Soon schools were suspending students for infractions far less serious than possession of firearms. These offenses included profanity, shoving in the hallway, and even dress code violations.

The effects of zero-tolerance discipline policies have been devastating. Students who have been suspended are far more likely to drop out of school, and students who drop out of school are far more likely to be arrested.

Despite the fact that the school-discipline issue hadn't yet become a topic of national concern or conversation, the more Atlantic looked into it, the more it came to realize it should devote significant resources to tackling the problem. Among the factors that proved persuasive to Atlantic:

- Zero-tolerance discipline policies have been particularly harmful to African American K–12 students who are suspended at a rate three times higher than white students. The effect of this form of punishment is devastating. Students who have been suspended are far more likely to drop out of school, and students who drop out of school are far more likely to be arrested. This vicious cycle came to be known as the "school-to-prison pipeline."
- Underlying the growing number of suspensions and expulsions is a
  deeper, perhaps even more challenging truth—that our nation's system
  of school discipline is emblematic of inequity in the distribution of
  resources and supports to help children succeed. There is an even greater
  inequality with regard to how our schools and our courts administer
  punishment along racial lines.

Ultimately, Atlantic saw that an initiative to promote school discipline reform would align with its core mission: to improve the opportunities and life trajectory of vulnerable, marginalized people and communities. In taking on this work, Atlantic saw an opportunity to promote changes in public school policies and practice that would keep vulnerable children in school and on track to high school graduation and college, rather than on the path to prison.

#### A BROAD SET OF GOALS

fter concluding that it could play a meaningful role in helping to solve the problem of harsh and excessive school discipline policies, Atlantic identified a set of ambitious but, it felt, achievable goals. In early 2010, Donna Lawrence, who was then head of Atlantic's Global Children & Youth Program, outlined the following short- and long-term goals:

#### **Short-term goals:**

- 1. Reduce national suspension and expulsion rates by 30 percent by 2016, as measured against their 2010 rates.
- 2. Reduce discipline disparities by 15 percent.

#### Long-term goals:

- 3. Return the United States from the 2006 suspension rates of 7 percent overall and 15 percent for African American students to pre-zero-tolerance era discipline rates (roughly 3 percent).
- 4. Eliminate racial disparities in disciplinary actions, thereby improving the educational and employment prospects of millions of U.S. public school students.

This work included a set of sub-goals: cutting in half the number of suspensions of black children to 6 percent, which was the level that existed before zero-tolerance policies were put in place; and improving school attendance and ultimately, graduation rates.

There is real inequality with regard to how our schools and our courts administer punishment along racial lines.



The goal of Atlantic's school discipline reform work was to promote changes in public school policies and practice that would keep vulnerable children in school and on track to high school graduation and college, rather than on the path to prison.

### THE GRANTMAKING STRATEGY: INSIDE/OUTSIDE — BOTTOM UP/TOP DOWN

chieving its school discipline goals would require a grantmaking strategy that depended upon a high level of coordination among funders and grantees, and an aggressive advocacy strategy.

The central strategic challenge was to create a nationwide policy shift on an issue as highly decentralized as school discipline policies. With decisions being made in thousands of school districts, it was necessary to mobilize local grassroots activity in specific areas to create a critical mass for change. Since a number of districts were already demonstrating the benefits of reform, the question became how to build on and accelerate that work to drive toward a tipping point. This pressure would be coupled with greater awareness among national leaders and decision makers about the need for change, supported by active funding and oversight by the Federal government.

To monitor progress, anybody involved in school discipline—from superintendents to teachers to judges to advocates—would need solid data that kept track of how students were being disciplined, and that paid careful attention to important issues like racial disparity.

The central strategic challenge was to create a nationwide policy shift on an issue as highly decentralized as school discipline policies.

There were two other important pillars to the strategy. Educators needed to understand the problem and how reform alternatives could help them to achieve core goals for student educational success. Judges were an important ally, as they could use their convening power to help persuade reluctant districts to come to the table with advocates to examine data, learn about solutions, and craft reform plans together.

Finally, there wasn't enough information about the relationship between exclusionary discipline to school climate and student academic success. There was also not enough information on what could be done to address disparities in discipline.

Rolling back the punitive zero-tolerance policies and practices would rely heavily on advocacy pressure from grassroots and legal advocates.

#### A FRAMEWORK FOR ADVOCACY

avitha Mediratta joined Atlantic in fall 2010 to lead the foundation's school discipline work. Together with Tanya Coke, a senior consultant with extensive experience in criminal justice and human rights, she began shaping the core elements of the foundation's grantmaking strategy. Mediratta and Coke sought to infuse a social movement approach in which a wide array of voices would need to be engaged in order to bring about change on the scale the foundation sought. Thus, the grantmaking strategy focused on the following framework:

- Build public demand for local and state reform.
- Strengthen federal mandates and incentives for reform.
- Engage educators and judicial leaders in promoting positive discipline.
- Spread knowledge about school discipline reform and disparity reduction.

Rolling back the punitive zero-tolerance policies and practices would rely heavily on advocacy pressure from grassroots and legal advocates. They would use a wide range of tactics that paid special attention to strategic communications to change the way people thought about school discipline. These organizations would build demand for reform that would lead to changes in policies and practices at all levels of decision-making—schools, districts, courts, states, Congress, and the executive branch. In addition to effective, targeted messages, advocates would need the resources to produce and deliver useful, accurate, trusted information that would highlight why current practices were harmful, and they would need to be able to point to better, more effective alternatives.

Grassroots youth, parent, and community organizing provided a foundation for the so-called "tipping point" strategy, in which change would occur in important places and inspire change elsewhere.

#### Build public demand for local and state reform

Moving districts to action required strong public pressure and thus a pillar of the grantmaking strategy became funding local grassroots organizations to build demand for reform. Putting parents and youth most affected by damaging policies at the core of this grassroots strategy was also important for other reasons. Their direct experience brought important insight into the problem that could inform the work, and it provided a moral authority in their advocacy. Their direct engagement allowed them to monitor district actions and push for effective implementation when policies changed.

With more than 14,000 school districts, Atlantic would have to be selective about where it could provide funding. The foundation soon identified organizations working in 16 states. These included groups with a history of work on this issue and that were located in districts where prior advocacy had already shifted policy. The focus in these places, including Denver, Chicago, and Los Angeles, was to advance implementation and use the success of the local work to press for statewide reform. The cohort also included groups working in districts where there had been little awareness of the problem, but where the data indicated a serious need for change. Importantly, the coverage—which encompassed almost a third of U.S. states, including a mix of large urban communities and smaller districts, as well as a combination of local and state-level work—was important to convey the rising momentum for change.

Grassroots youth, parent, and community organizing provided a foundation for the so-called "tipping point" strategy, in which change would occur in important places and inspire change elsewhere. Seeking to increase the influence of these groups on policy, Atlantic turned next to funding legal advocates—civil rights groups and public interest law firms that were focused on this issue at both the local and the national levels. They included:

- Advancement Project
- The National Economic & Social Rights Initiative
- Dignity in Schools Campaign
- LDF Legal Strategies Collaborative
- The NAACP Legal Defense Fund
- The National ACLU and state affiliates
- National NAACP
- The New York Civil Liberties Union
- The Southern Poverty Law Center

With more than 14,000 school districts nationwide, Atlantic had to be selective about where it could provide funding. A vast array of small, grassroots organizations would be needed to help carry out the bottom-up approach, but it's difficult for a large foundation to make many small grants. One solution was the creation of a pooled donor fund that would engage other donors in this work. The Just and Fair Schools Fund was created to serve this purpose.\* This would also provide the resources necessary to strengthen these organizations so they would be able to continue their work beyond 2016, when Atlantic would exit the field.

#### Strengthen federal mandates and incentives for reform

While school districts largely set their own discipline policies, federal action could influence school districts to change their practices. As a result, Atlantic invested heavily in advocacy efforts to influence Congress and the Obama administration to pay attention to this issue. Grantees like the Advancement Project, Alliance for Educational Justice, and Dignity in Schools Campaign helped train local groups to advocate on the issue and to become national spokespeople. They traveled to Washington to meet with lawmakers to persuade them to take action.

Under zero tolerance policies, 60 percent of all students in Texas had been suspended at one point in their school careers; a vast majority of them were students of color.

While Atlantic was initially hopeful that Congress would pass legislation favorable to their work, the mid-term elections of 2010 heralded a legislative logiam in Washington that has persisted to the time of this writing, in mid-2017. As a result, the strategy shifted to appeal to federal agencies to take up the cause.

Atlantic and some of its other funding partners, including the Open Society Foundations, assisted in facilitating relationships between advocates and federal officials, helping grantees share personal stories about the effects of zero-tolerance policies on students, and ensuring that youth voices were properly heard.

<sup>\*</sup>It later transitioned to be the Communities for Just Schools Fund at New Venture Projects.



Garfield High School in Los Angles took steps to eliminate suspensions that had numbered in the hundreds in a single school year.

Atlantic funded the efforts of the Council on State Governments to share groundbreaking data on discriminatory school discipline policies to officials at the U.S. Departments of Education and Justice. One pivotal meeting included Attorney General Eric Holder and other top officials of the Department of Justice. At one point during the presentation, Attorney General Holder heard evidence that revealed that 60 percent of all students in Texas had been suspended at one point in their school careers and that the vast percentage were students of color. At that point, he leaned forward in his chair and said, "Excuse me, could you say that again?" then turned to an aide and said, "We have to do something about this."

Juvenile court judges worked with school officials, law enforcement, and advocacy groups to reform the disciplinary code and find alternatives to harsh punishments for minor infractions.

As a result of these direct advocacy activities, the Justice Department then engaged the Department of Education, and the two agencies collaborated in the Supportive School Discipline Initiative. This eventually led to direct involvement by President Obama, who issued a report called "My Brother's Keeper," which included a strong call for school discipline reform.

#### Engage educators and judicial leaders in promoting positive discipline

Another important grassroots strategy involved identifying juvenile court judges who had become frustrated at having their calendars clogged with young people arrested for minor offenses like gum chewing, low-riding pants, or shoving in the hallway. These judges, in particular in Jefferson County, Alabama, and Clayton County, Georgia, had been working with school officials, law enforcement, and advocacy groups to reform the disciplinary code and find alternatives to harsh punishments for minor infractions. This work proved to be an effective model for other judges to follow.

Advocacy from influential members of the legal community was essential. The late Judge Judith Kaye, the former chief judge of the New York State

Court of Appeals, became a strenuous advocate for school discipline reform. Judge Kaye convened her judicial colleagues to raise awareness of the issue and connect them to sources of data and expertise. Atlantic was joined by other donors and the federal government in supporting the National Council for Juvenile and Family Court Judges to launch a project to help share information and strategies with judges.

#### Spread knowledge about school discipline reform and disparity reduction

As the example with the attorney general demonstrated, advocacy alone wasn't enough—it would need to be supported by data.

Grantees needed to show the negative effects of zero-tolerance policies not only on the children involved, but on how those policies damaged entire schools. It was also not enough to demonstrate the policies that didn't work. Alternatives needed to be tested to show that positive discipline approaches were more effective ways of educating schoolchildren and maintaining order in the classroom.

Atlantic made grants to develop and share information on how to design more effective approaches. The Discipline Disparities Collaborative is one example. It consisted of researchers, educators, and advocates, and it identified and shared research on emerging innovations in the field. Atlantic also funded the Council of State Governments and the American Institutes for Research's National Clearinghouse on Supportive School Discipline to provide information.

#### THE COMMUNICATIONS STRATEGY

robust communications strategy was essential to success. Changing discipline policy and practice required changing the conversation among educators, lawmakers, judges, and even parents about why suspensions, expulsions, and arrests in school were wrong, and what needed to be done about it. Decision makers needed to hear credible facts, delivered by authentic and powerful messengers.

Alternatives needed to be tested to show that positive discipline approaches were effective at educating schoolchildren and maintaining order in the classroom.



Miaija Jawara received a one-day suspension for a schoolyard fight in 10th grade. When it came time to disclose her suspension on a college application, she described how the experience led her to work toward in-school restorative justice in her New York City school.

There were few organizations with sufficient staff and funding to carry out this work. At the time Atlantic embarked on this strategy, messaging about problems with zero tolerance and its alternatives was not well coordinated, and there was no integrated media strategy that would reinforce the work of grassroots organizations or elite insiders.

There was also no full-time communications person in any office in the country whose job was dedicated to exploding the myths of zero tolerance school discipline policies. There was nobody to do rapid response to take advantage of breaking national news to make the issue relevant in local communities. (In one well-known incident, a 6-year-old Cub Scout was suspended for taking a camping utensil commonly referred to as a "spork" to school.)

The Advancement Project and The Dignity in Schools Campaign created a host of useful tools to help tell their stories, including social media campaigns, websites, infographics, and toolkits.

While there was episodic coverage of examples of the negative effects of harsh disciplinary measures in schools, it was not tied to a larger campaign, and reporting was considered shallow at best. Few stories linked examples with issues of the disproportionate use of suspensions, expulsions, or arrests of students of color, the lack of effectiveness of these tactics, or the advantages of a more constructive approach to discipline.

Atlantic made grants to two anchor organizations, the Advancement Project and the Dignity in Schools Campaign, to drive national news stories that could be tied to more local efforts. Advancement Project conducted focus groups to develop messages and then engaged grassroots groups to learn about new messaging and to practice using those messages in national "Action Camps." Along with Dignity in Schools, they collected personal stories that could be used by a variety of partners. These national organizations also created a host of other useful tools and tactics to help tell their stories, including social media campaigns, websites, infographics, and toolkits.

The
Atlantic

Grassroots activists not only needed to reach more media outlets, but they also had to ensure that local stories fed a larger narrative on the need and momentum for reform. Atlantic brought in a media firm called the Hatcher Group to work with grassroots organizations, researchers, legal advocates, and national advocacy organizations to conduct media relations with national outlets and to track and analyze media coverage. In addition, they funded the Columbia School of Journalism and the Southern Education Foundation to host two-day in-depth institutes for journalists to learn about the issue.

"Atlantic treated grantees as partners, not contractors. ... they shared information, and there was great respect on all sides."

Virginia Edwards, former editor of EdWeek

Given the importance of educators as an audience, Atlantic funded a school discipline journalism beat at *EdWeek*, a national newspaper dedicated to education that is read widely by policymakers, teachers, administrators, and funders. The grant helped highlight the problem and provide constructive solutions to a sophisticated and influential audience. According to *EdWeek*'s former editor, Virginia Edwards, the coverage proved exceedingly popular among policymakers and practitioners, and school discipline became one of the most frequent search terms on the *EdWeek* website.

Reform advocates sought to change the thinking of a broad set of audiences. Taken together, these efforts were designed to re-frame the issue. This is one of the most difficult challenges in communications, because changing an audience's perception of an issue requires undoing an existing norm and establishing a more compelling counter-narrative. Reform advocates sought to change the thinking of a broad set of audiences, who saw harsh school discipline measures as a necessary evil to make classrooms safer and promote learning. The goal was to help them realize that this approach was ineffective and cruel, and it was putting the futures of thousands upon thousands of schoolchildren at risk—students who were disproportionately people of color.

It was important to develop appropriate messengers for this strategy. Funders made sure that students had the opportunity and the means to tell their own stories and advocate for fairness directly with important decision makers. For example, young people working with Urban Youth Collaborative in New York City attended rallies, public hearings, city council meetings, and community events, and wrote op-eds calling on New York to changes its policies. (The work is making a difference—in 2016, the New York City Mayor's budget allocated \$47 million for school discipline reform.) This approach was carried out by many similar types of organizations across the country. It was at a meeting of students visiting Washington organized by a grassroots youth group called the Alliance for Educational Justice that Department of Education officials began to take notice of the issue.

In 2016, the New York City Mayor's budget allocated \$47 million for school discipline reform.

Atlantic also worked with elite messengers like Judge Kaye in New York to host conferences to bring together judges and education leaders to address the school-to-prison pipeline, gathering allies to press for changes. Finally, rank-and-file teachers along with powerful teachers' unions would need to endorse a new approach to school discipline. A partnership with the Schott Foundation, the Dignity in Schools Campaign, and the Alliance for Educational Justice helped engage national figures like American Federation of Teachers President Randi Weingarten and others, who took up the call to address the severe disparities in punishment disproportionately felt by students of color. Grants to the American Federation of Teachers allowed the national organization to better work with its local affiliates to commit to seek alternatives to suspension and expulsion.

#### ATLANTIC'S ROLE IN THE STRATEGY

tlantic's basic assumptions proved to be correct. It might appear as though Atlantic acted as a contractor in which it identified clear goals and hired sub-contractors to achieve them. This would be a simplistic reading of the foundation's role. In fact, Atlantic used its influence when the time was right, but remained in the background when it

Many grantees have noted that they learned a great deal from each other at events hosted by Atlantic. made sense to do so. Overall, the foundation played a variety of roles in the school discipline reform strategy, including:

**Co-funder.** Atlantic was by no means the first funder to take on this issue. By 2010, when Atlantic was making its funding decisions, a number of other funders were already hard at work or would soon join, including: Open Society Institute, Edward W. Hazen Foundation, Charles Stewart Mott Foundation, Levi Strauss Foundation, JEHT Foundation, Ford Foundation, and Schott Foundation for Public Education. Atlantic drew from the work already underway and determined that it could build on the existing activities with its own considerable investment to make a meaningful difference on the issue. The funder's collaborative allowed grantmakers to share strategic decisions and ensure that important parts of the strategy did not fall through the cracks. Atlantic was able to turn to a number of other funders who had long been interested in the issue to collaborate on their grantmaking as well. Among other activities, these additional funders met regularly to create strategies about how to use their collective resources to better support the field and more effectively encourage government action.

**Convener.** Many grantees have noted that they learned a great deal from each other at events hosted by Atlantic. Atlantic could use its role as large funder to bring groups together to learn from each other, but Atlantic did not convene these meetings directly. Instead they supported grantees in the field to host or facilitate meetings, conferences, or other gatherings for organizations that would not otherwise have had the opportunity to work together and learn from each other. Kesi Foster of the Urban Youth Collaborative in New York City noted, "It was extremely important to learn from the successes and challenges in other cities and to build relationships with other groups."

"It was extremely important to learn from the successes and challenges in other cities and to build relationships with other groups."

Kesi Foster, Urban Youth Collaborative

**Connector.** As a large funder, Atlantic played a particularly important role in advancing Atlantic's inside strategy. Atlantic took advantage of its contacts within government and its influence as a large philanthropic organization to legitimize the work of its grantees through Atlantic's own independent relationships with policymakers and other influential decision makers. These relationships would help grantees be more effective in meetings, hearings, and other gatherings in which grantees communicated directly with key decision makers, a strategy that turned out to be extremely effective.

**Collaborator.** Atlantic staff saw their role as a collaborator, not a leader. Tanya Coke notes: "The advocates were there — we just funded them so they had some capacity for the first time. But what we added was the research as well as champions who could point to how zero tolerance was undermining educational outcomes and graduation rates." It was important to work side by side with grantees and other funders. Virginia Edwards, the former editor and publisher of *EdWeek*, said that Atlantic "treated grantees as partners, not contractors." She added that "they shared information, and there was great respect on all sides."

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#### **OBSTACLES TO SUCCESS**

very strategy has obstacles. There were a number of challenges that Atlantic and its grantees had to overcome.

To begin with, by 2010 there was little hope that Congress would pass comprehensive federal education reform. The nation's federal education legislation, the Elementary and Secondary Education Act (known since 2002 as No Child Left Behind) was supposed to have been reauthorized in 2007. By 2010, the bill was still hopelessly stalled. Instead, Atlantic focused its federal strategy on government agencies. At first, they gained little traction until they were able to show officials from the Department of Education and the Department of Justice how this issue was undermining educational outcomes for America's schoolchildren.

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Teachers also presented a challenge. Given the intense pressure to produce higher test scores and high graduation rates under No Child Left Behind, teachers, and especially teachers unions, were loathe to take a chance on new strategies. The investment in advocacy, research, and journalism that was targeted toward education professionals proved essential, eventually leading to a partnership with the American Federation of Teachers.

These challenges have proved surmountable. Even the federal education reauthorization was passed, against all odds, in December 2015. The new legislation, which was influenced by Atlantic grantees like the Dignity in Schools Campaign, contains extensive direction about how to create a climate in the classroom that is more conducive to learning, including reducing the overuse of discipline practices that remove students from the classroom.

#### HOW DID IT ALL TURN OUT?

his strategy has proven to be remarkably successful in its execution and its outcomes. The work by grassroots organizations across the country has helped to spur reform in more than a dozen states. News coverage of the issue has increased nearly eightfold from 2011 to 2014, and public attitudes, which once favored zero tolerance, are now shifting to support restorative justice and other disciplinary alternatives.

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Schools quickly made progress. According to the U.S. Department of Education's Office for Civil Rights, out-of-school suspensions were down by almost 20 percent from 2012 to 2014. While this is a step in the right direction, the data reveal that students of color, English learners, and students with disabilities are still likely to be suspended or expelled more than their classmates.

Even the federal education reauthorization bill was passed in late 2015 and is the product of significant input from Atlantic grantees on school discipline. As evaluator Stacie Foster noted, "I have never seen anything that has worked as well as this has. Grantees all say that they've never seen an issue go so far so fast."

#### LESSONS FOR THE FIELD

here is no shortage of lessons that funders and advocates can take from Atlantic's work on school discipline reform. A number of items stand out, which may be applicable to a host of advocacy campaigns.

- 1. Authentic messengers, especially youth, were critical. The decision at the outset to provide a forum for young people was the right one. Throughout the campaign, youth have presented emphatic and deeply authentic voices, advocating for a school system that values learning and treats every student with respect. As Kavitha Mediratta points out, "We didn't pick this issue—young people did. We were just smart enough to listen."
- **2. Local activists were essential.** Choosing a bottom-up/top-down approach proved to be very effective. The presence of parents, students, and other members of the community pushing for change in their schools, regions, and states has been of particular importance. As Tanya Coke notes, "None of our success could have happened without smart, committed local advocates who were directly affected by these policies."
- **3.** Changing the narrative is particularly necessary when decision-making is decentralized. Most decisions about school discipline are made by school districts. With more than 14,000 school districts in the United States, it would be impossible to directly persuade each district. But there were certain districts that served as bellwethers for the issue. As they began to change their practices, it provided the opportunity to tell a larger story about the trend of forward-thinking districts taking on a difficult problem, and it encouraged other districts to do the same. While this has created momentum, the domino effect is not yet complete.

Atlantic spent \$47 million over four years to help turn the tide on school discipline.
There are many multi-hundred-million-dollar philanthropic campaigns that have yielded less favorable results.

The Atlantic Philanthropies

- **4. Even if the focus is on grantees, foundations can use their influence to help grantees gain access.** Atlantic was able to regularly use its credibility with decision makers to reinforce relationships between grantees and decision makers to advance the overall strategy. Atlantic knew how compelling young people were as messengers, but the imprimatur of grantees' relationships with Atlantic also proved useful.
- **5. Funder collaboration is key.** Atlantic was not the first funder to discover this issue, and given that the foundation completed its grantmaking in the end of 2016, it knew that it couldn't be the last. No funder can take on an issue alone—there simply isn't enough money to solve almost any particular problem without partners, and the value of diverse experience and perspectives cannot be overstated. Nevertheless, funding collaborations can be tricky, and it is essential to be flexible and to maintain open lines of communication.
- **6.** Big systems change can happen with a relatively small investment. Atlantic spent \$47 million over four years to help turn the tide on school discipline. That may seem like a significant amount of money, but there are many multi-hundred-million-dollar philanthropic campaigns that have yielded less favorable results. There were already a number of funders working on the issue, but Atlantic's funding injected new energy and desperately needed resources into the effort. Still, \$47 million remains a relatively small sum to make a difference on an issue that is felt by nearly every school district in the country.
- **7. Funders should remember that they have a variety of tools in their toolbox, and that grantmaking is just one way to make change.** It can be tempting to rely on one approach to achieve success. Given that Atlantic was attempting to build and sustain a movement, it tried to make sure that it left no strategic stone
- "We took a bet that this issue would get traction and that it would be important. I think our instinct about the issue was right, and that we could move the needle on educational outcomes for children of color."

Donna Lawrence, former head of Atlantic's Global Children & Youth Program

Building trusting relationships was essential, and Atlantic worked with its grantees and co-funders as true partners. unturned. In addition to a strong commitment to grassroots and federal advocacy, Atlantic funded research, journalism, and technical assistance for grantees, among a variety of approaches. Finally, building trusting relationships was essential, and Atlantic worked with its grantees and co-funders as true partners and sought to build trust and maintain accountability by developing and implementing its strategy in a transparent way.

#### CONCLUSION

n 2009, the problem of extreme discipline practices against students of color was a priority of very few important decision makers. The issue was a symptom of deeper problems that pervade American society—race determines how people are educated, whether they will succeed in school and get a decent job, and how they will fare in society throughout their lives. Atlantic saw this as an opportunity to create the kind of change that will be felt for generations. "We took a bet that this issue would get traction and that it would be important," said Donna Lawrence. "I think our instinct about the issue was right, and that we could move the needle on educational outcomes for children of color."

Atlantic began by articulating a very specific grantmaking strategy that relied heavily on smart communications and effective advocacy. Its elements included a national communications strategy, message development, and media outreach. There was an equally powerful grassroots communications strategy that gave voice to students, parents, and communities affected by school discipline policies that disproportionately harmed young students of color. This strategy has been extremely successful, but as Kavitha Mediratta acknowledges, "Despite the tremendous progress to date, it would be a mistake to think the work is finished. The nation is only at the beginning stages of awareness and policy change, and shifting practice and culture in schools will take more time, resources, and commitment to achieve." There is little doubt, however, that this previously invisible problem is now very visible.

Despite the tremendous progress to date, it would be a mistake to think the work is finished.

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