

## Exploring the regulatory frameworks in Philanthropy

by Shelly Satuku



The discourse around regulatory frameworks in philanthropy is ongoing. Philanthropy, a proven vital component to development and response to crisis, is not spared from some of the restrictive regulatory measures imposed on the broader civic space. I had the privilege of being part of a panel discussion on Regulatory Frameworks at the 4th African Philanthropy Conference in Saly, Senegal. The conference was themed around People, Practice, Power and Policy. The discussion of regulatory frameworks fell under policy as a vital component of philanthropy. The panel consisted of Dr Stigmata Tenga from Africa Philanthropy Network (APN), Prof Jacob Mati from CAPSI, Muhammed Saidykhan of Climate Action Network International and myself, Shelly Satuku from SIVIO Institute.

To kick off the discussion, Dr. Tendai Murisa, the moderator, posed a crucial question: why is it imperative to address the topic of regulatory frameworks at this moment? As the panelists shared their insights, it became evident that fostering a conducive atmosphere for philanthropy to flourish requires an environment that nurtures economic growth. It can be postulated that the prosperity of every facet of economic and social endeavours hinges upon the presence of a well-defined, comprehensible, and favourable legal framework. Additionally, the existence of institutions capable of effectively implementing these laws, coupled with sufficient political determination, further amplifies the likelihood of success.

In order for philanthropy to thrive, it is crucial to have a supportive legal framework that reduces bureaucratic obstacles and provides incentives for giving. Dr. Tenga highlighted the importance of looking into the legal environment for philanthropy, citing the assessment conducted by APN on legal environment and mapping of Philanthropy Support Actors in Sub-Saharan Africa. She emphasized that measures aimed at restricting the civic space have also affected the growth of African philanthropy. The findings from the APN study align with those of the SIVIO Institute's study in the SADC region. Philanthropy organizations heavily rely on fundraising, and the flexibility of monetary movement is crucial. The SADC study revealed that measures implemented due to FATF recommendations have slowed down the movement of money, including funds for philanthropic causes.

Banks have imposed compliance requirements that organizations must adhere to. The transfer of monetary resources for philanthropy purposes across borders is hindered by restrictions on widely used currencies like the United States Dollar (USD). Zimbabwe, for example, has imposed restrictions on USD transfers, subjecting them to bureaucratic processes. In South Africa, if an NPO receives donations in a currency other than the Rand, it must be converted, leading to additional bank procedures. However, there are positive aspects to consider in terms of frameworks. Agreements such as the Common Monetary Area between South Africa, Lesotho, eSwatini, and Namibia facilitate the movement of money and enhance efficiency in philanthropic responses. More recently, progress has been made in commerce through the African Continental Free Trade Area (AfCFTA), which aims to eliminate trade barriers and boost intra-Africa trade. This trade agreement covers critical areas of Africa's economy, including digital trade and investment protection. African philanthropy stands to benefit from such initiatives as they generate more monetary resources that can be channelled towards important causes.

### **Moving forward**

The 4<sup>th</sup> African Philanthropy Conference should mark a starting point for further engagement. The recent studies conducted have revealed a significant lack of awareness among philanthropy practitioners regarding the regulatory frameworks that govern their sector. It is crucial to address these knowledge gaps as we advocate for an enabling environment. Currently, discussions and policy formulations rarely involve the practitioners who are directly affected. It is essential for actors in the civic space to proactively engage with the government, ensuring that their voices are heard and policies are formulated to improve the operating environment. Think tanks should also play a role in developing guidelines specifically tailored to philanthropy in Africa. These guidelines can then be presented to the SADC and AU secretariat, encouraging their involvement in creating a conducive environment for philanthropy to thrive.

The SIVIO Institute has taken a step towards assessing the legal operating environment for philanthropy in 10 SADC countries through the Ease of Doing Philanthropy Index. This open access online platform ranks countries based on how their legal frameworks either promote or hinder philanthropy. Expanding this index to East Africa will further support research-based advocacy for an enabling environment. During the Policy session at the conference, participants highlighted the shrinking civic space in their respective countries, which directly impacts philanthropy. This emphasizes the need for collaboration among civil society actors, to engage with the government and develop policies that encourage philanthropy as a crucial component of national development. Research plays a vital role in shedding light on the issues affecting the philanthropy sector in Africa, and now we must focus on taking the necessary steps to create an enabling environment. Guidelines for philanthropy can draw inspiration from best practices, such as Rwanda's efforts to recognize the role of philanthropy in national development. By learning from these examples and implementing similar strategies, we can ensure the creation of an environment that fosters and supports philanthropy in Africa.