

CONSTITUTIONAL AMENDMENTS: MOTIVATION AND PROPOSAL

INTRODUCTION:

The preamble of the South African Constitution sets out the fundamental objectives of the constitution itself and one such objective is, "(To) improve the quality of life of all citizens and free the potential of each person." My objective, insofar as this submission is concerned, is to show that neither of these laudable intentions have been achieved and, furthermore, in the light of other apparent omissions and contradictions in the preamble (covered in further detail below) it is my conclusion that achievement of these objectives is not currently possible.

Whether or not the "quality of life" of individual South Africans has improved since the formulation of the constitution is a matter of opinion, and dependant largely on the definition of the term "quality". This subjectivity is further compounded by the question of how far back in time it is necessary to go in order to put the matter into clear historical perspective. How, for example, do the daily living circumstances of an unemployed shack-dweller compare with those of his pre-colonial ancestor who took his sustenance directly from the land and paid rent to no landlord? Has rampant crime not reduced the quality of life for people across the cultural spectrum? How does ever-increasing environmental degradation impact on quality of life? Some of my own perspectives in this regard are illuminated later in the text but, let me be clear, my primary focus in this submission will be concerned with the question of the what, exactly, is meant by "(freeing) the potential of each person."

There is little by way of direct evidence to suggest fulfillment of this constitutional objective and, cast against the background of prevailing social conditions, it might be more consistent with reality to suggest that the polar opposite holds true. Naturally enough, defining exactly what constitutes the "potential" of a person is a subjective matter. However, in this particular respect, it is my understanding that in the context of the further letter and spirit of the constitution, together with the many and varied contributions in recent years relating to "moral regeneration" and the question of ubuntu and African Renaissance, it seems that the nature of the "potential" envisaged can be determined with reasonable accuracy.

This submission therefore consists, firstly, of my own attempt to identify the key characteristics of human "potential" in as clear and objective a way as possible. Secondly, it is an attempt to highlight the inadequacy of the constitution in terms of quantifying the developmental "potential" to which it makes reference. And, thirdly, this submission concludes with a proposal outlining what are considered to be appropriate remedial amendments to the constitution.

Such amendments, in my opinion, would eliminate existing deficiencies, contradictions and omissions in the constitution and, if implemented, such amendments would also create far greater clarity with respect to the definition of individual "potential." It need hardly be said that clarity of definition in this respect, is absolutely central to the advancement of positive growth and development in individual and society alike.

In addressing the question of "potential" I must perforce delve into the areas of morality, religion, primatology, psychology and the like. I am not an expert in any of these fields, but have a fairly comprehensive general knowledge of each, and I certainly feel up to the

task intellectually. More importantly, I feel that as a South African citizen, a father and a person imbued with a strong sense of allegiance to Africa, that it is my duty to table these concerns and proposals to the best of my ability. Some of the areas my topic must cover are, by their very nature, sensitive and the possibilities with respect to misunderstanding and offense are relatively high. This is unavoidable.

Having said which, every care has been taken to present the information contained in this submission in a way which is as objective, factual and inoffensive as possible and each word has been carefully weighed in this respect. By the same token, I have also made no attempt to palliate or evade the issues, and have been guided in this respect by my own reason and conscience alone. Terms such as "mankind" are used in the generic sense and reference to one gender usually alludes to both and this style of presentation is purely concerned with brevity. The term "primate" refers to the higher primates, which include monkeys, apes and humans. I am not aligned with any political or religious group and fully support the constitutional right of people to associate freely and to practice the religion of their choice. I stem from a Christian background and bear no animosity whatsoever towards individual people of any race, religion or nationality.

Part of my submission covers the topic of animal rights, and it must candidly be said at the outset that the modern African, with some notable but rare exceptions, appears to view animals as non-entities in precisely the same manner as his forebears were seen as not-fully-human encumbrances to "progress" by the pathologically materialistic European settlers. Responsible custodianship of the land and the welfare of his animal companions is clearly not a priority to the modern African, and this apparent lack of empathy and even callousness appears to contrast strongly with the attitude towards the natural environment exhibited by his pre-colonial ancestors. As George Bernard Shaw once said, "The worst sin toward our fellow creatures is not to hate them, but to be indifferent to them; that's the essence of inhumanity."

In this respect, it is my contention that such lack of empathy suggests the influence of a morally deficient colonial legacy, rather than an inherent insensitivity and selfishness in the soul of the African. It is my further contention that the virtue of empathy (otherwise known as ubuntu in its African manifestation) was neither deficient, nor confined exclusively to the human domain in pre-colonial Africa and that, ultimately, it is the measure of empathy in the individual and in his society, that identifies their respective degrees of human integrity. In short, that the application of the philosophical precepts of ubuntu should inform and determine what human "potential" actually means. This is my key objective!

MORAL REGENERATION:

Suffice to say that the current social landscape in South Africa does not suggest any tangible degree of moral regeneration. Quite the contrary would appear to be true and, as such, it seems reasonable to conclude that circumstances conducive to development of the individual's full human potential are not properly understood or discernable in the present social arena. In point of fact, when considered against the background of political developments and regression in areas such as crime, nepotism and burgeoning levels of corruption, there appears to be every reason to believe that the fine words and principles contained in our constitution are undermined and betrayed by deeds associated with their interpretation and implementation at government level. As such, "moral regeneration" and "full human potential" are reduced to little more than hollow,

Ill-defined and meaningless ideals, seemingly doomed to continuing erosion, and an early demise in the real world of materialism and narrow self-interest that defines a contemporary Africa grafted onto the stem of colonialism and divided from its own cultural roots.

The word "moral" is a term related to human behaviour and it implies a psychological capacity for determining right from wrong and good from bad. It also implies adherence to conventional standards of conduct. Morality insofar as the individual is concerned, may consequently be said to be either a self-determined value judgment arising from the person's own faculties, or a group-determined (cultural) value arising from the decision of another individual or individuals at some previous time. As the individual is a product of his parental and cultural influence in the first instance, it may be argued that independent value judgment is an illusion.

This is to some large extent true, and such influence on the ability of the individual to make well-balanced decisions based on sound moral judgment, is a key aspect of this essay. What is "good" for the individual may only be said to be authentically "good" from a moral perspective, when it also serves to enhance (or at least not diminish) the condition of his neighbour, his fellow creatures and his natural environment - all of which are central to his survival and quality of life, and consequently his clear moral duty to protect. Moral integrity is accordingly definable by rational means, and acceptable standards or levels of achievement with respect to moral behaviour can be established by the same manner. As such, it falls within our intellectual capabilities as human beings to make sound moral decisions based on reason and, in point of fact, this capacity is one of our most defining characteristics as a species. It's what makes us human!

Decisions based on sound moral judgment (virtuous decisions) represent the highest pinnacle of human development, and such ability in the individual remains the only valid measure of human moral potential. Needless to say, prevailing social conditions do not encourage the development of sound moral faculties and this could not be otherwise, so long as we are burdened by the depraved notion of "original sin." Beyond the limitations of Judeo/Christian historical perspective, the original human condition is virtue rather than sin and all of history, extending to arboreal times, shows clearly that co-operation (which is the seed of virtue) is the fundamental basis of all primate social structures.

The evidence of everyday life would not immediately support my contention in this respect, but it should not be forgotten that the degenerate chaos that confronts our eyes on a daily basis, is the fruit of a corrupt social paradigm that cannot be defended by rational argument. Christianity, in common with all other mind-bending cults and religious traditions, depends for its survival on blind and unquestioning faith and the time and money of its delusional adherents. At root it is founded upon an incomprehensible but intoxicating conglomerate of mystery, miracle, and prophecy of the invariably self-fulfilling variety, and, in the final analysis, despite all posturing and persuasion to the contrary by the Church, the business of faith amounts to nothing more and nothing less than primitive superstition deployed to the purposes of exploitation; power and revenue. It is an abuse of public credulity. Religion should not be confused with spirituality and, ironically, the former invariably serves to preclude the development of the latter.

Reason is the antithesis of faith, which, consisting as it does of irrational but unshakeable belief, corrupts moral integrity where such faith itself stems from immoral foundations. Reason is the faculty of rational thought. It is a faculty common to all

primates but reaches its ultimate expression in humans. Reason and reason alone underlies the Enlightenment that broke the stranglehold of centuries of debilitating religious faith, and ushered in the modern era of science and philosophy. The development of an individual to his full potential is a constitutional right in South Africa and, as such, it is abundantly clear that this, in turn, is dependant upon the definition and the establishment of moral integrity in our society. Reason alone can accomplish the necessary paradigm shift, overcome the delusional and debilitating effects of faith, establish positive and desirable moral values, and sustain them into the future.

I intend to show that existing cultural circumstances suppress moral growth and retard our developmental opportunities as human beings. I will also show that the constitution itself is flawed and not equal to the task in this particular area. Several pages could be filled with further interpretations and examples of issues related to the question of moral integrity. However, the purpose of this essay is to present an overview of an enormous topic in such way as to highlight only the salient and incontrovertible facts; to focus on the essential or core issues and avoid, at all cost, the influence of possibly corrupt or deficient conventional standards – whatever their duration or degree of influence. In the context of my endeavor, the question of morality is sufficiently exposed and the essential facts are clear enough.

ORIGINS OF MORAL DEVELOPMENT IN HUMANKIND:

As my argument is concerned to some extent with the welfare and rights of primates in general and humans in particular, and as the faculty of reason and resultant morality is underpinned by, and entirely the result of evolutionary psychological developments that are unique in the animal kingdom, and consequently essential to an understanding of morality at a deeper level, it is perhaps best if I undertook to explain my understanding of the term "primate" as it pertains to fundamental primate psychology.

There are essentially two aspects of primate behaviour that I would like to put forward for consideration. In broad terms the first relates to determining what, exactly, it is about the psychology of a primate that sets it apart and makes it unique in the mammalian order? How does it think? What motivates and influences its behaviour? What is the nature of its social requirements and how is it influenced by its social circumstances? The second part of the exercise is related to the first but is concerned with secondary (in the case of primates) instinctive behaviour more so than reason, and is designed to show how instinctive behaviour, under certain circumstances, can be counter-productive to the welfare of the individual, and, by logical extension of this principle, detrimental to society at large.

Eugene Marais, a pioneer in the field of ethology, was the first person to observe a group of primates in their natural surroundings and conduct field research with respect to their behavioural characteristics. Marais conducted his research in the Waterberg in the early years of the 20th century, and recorded his observations in a book entitled "The Soul of the Ape." Marais died in 1936 and the manuscript of this groundbreaking and inspired work lay unpublished until 1969. By great fortune it was not lost. His work has since been reinterpreted by others but, in a way not dissimilar to the enduring and essentially unchanging relevance of Darwin's thesis, the discoveries Marais made remain relevant and, in my opinion, the true importance and value of this work still remains to be recognized.

The book is aptly titled for it gives us a glimpse into the innermost soul of the chacma baboon and, by logical association, a better understanding of all primate behavioral characteristics. In a nutshell, what Marais discovered was that all higher primates rely entirely on extensive periods of nurturing in early life, and the development of associated causal memory function resulting from such existential experiences for the attainment of social and survival skills.

Causal memory manifests as the faculty of reason, and the difference between humans and baboons in this regard is purely a question of degree. Essentially we think in the same way as our close cousins, and experience identical needs and emotional responses. Causal memory determines the behaviour of the individual in relation to its environment and, flowing from this, it becomes clear that we are all products of our childhood experiences, parental guidance and cultural conditioning and are essentially creatures of reason, tempered by a relatively reduced degree of phyletic memory function or instinct, than is the case in other mammalian life forms where the position is reversed, to a greater or lesser degree, in each species.

Marais put it as follows: "Rear a baboon, for example, in captivity from birth, and protect him artificially against rain and cold. Let him never see an insect or the natural fruits or roots of his own environment, and then take him to the mountains where he was born. He will be inexpressibly stupid. A live scorpion will scare him to death. He might starve, but he will not know how to pick up a stone to look for food. He will eat a poison-leaf apple as readily as a sandapple. In other words, if you do not teach him, he will starve to death in the midst of plenty. But there is another factor: He can learn quickly. Persuade him only once to eat an insect, let him discover how tasty a scorpion is but that it can sting, and show him that there are scorpions under every stone – and he is saved."

To demonstrate the difference between causal and phyletic memory, Marais reared an otter from birth in entirely artificial circumstances allowing it no access to water, other than its drinking water, feeding it on red meat rather than its preferred natural foods, and keeping it in complete isolation from its own kind. On releasing the adult otter back into the wild he records the following: "...before long he will jump into the water and dive and swim as if he had never done anything else. If he is hungry, he will soon catch a crab and go and sit on the riverbank to eat it. He knows what kind of food to eat and where to look for it without ever having learnt to do so."

Marais kept weaverbirds in artificial conditions with no weaving material whatsoever at their disposal. These artificial circumstances were maintained over several weaverbird generations. Despite which, the weaverbirds could still weave flawlessly when provided with material and suffered no apparent loss of instinctive ability. What Marais unlocked through these experiments was the secret of what makes primates different to all other animals and his discoveries are key to understanding ourselves, and thereby providing ourselves the opportunity to consciously and deliberately establish cultural and environmental conditions necessary for optimal development as human beings. It is my understanding that this, ultimately, is the true potential and worth of this remarkable South African's revolutionary insights.

CORRUPTION:

Corruption is a good synonym for immorality and, once again, the origin and the characteristics of the condition are most easily understood, when cast against the

backdrop of human origins and the virtually unchanged primate behavioural criteria that apply. The way you catch a primate – a practice invariably associated with dubious human motivations on the part of the hunter involved, is both interesting and unique in the animal world. A monkey trap is a device used exclusively for capturing primates. The trap can be made from a variety of things and hollowed out gourds are a typical favourite. The gourd is tethered to a stake or nearby tree and a small hole is carved in the side of the gourd, allowing just sufficient space for the primate to squeeze his hand through and grasp the bait of fruit or nuts deposited in the gourd by the hunter.

It's a very simple but highly effective device. The primate picks up the gourd, which it identifies as a possible meal, and pokes its hand through the opening grasping the bait. It then discovers that the clenched hand containing the fruit cannot pass through the opening in the gourd and it is trapped. Foolish monkey! Why does it not simply let go of the fruit? It sees the man coming with a net and it knows that its freedom is at an end and its life in jeopardy, but instinctive greed overcomes causal reason in the moment, and it sits trembling in fear or yanking at the tether in a futile attempt to free itself. Letting go of a perceived prize is just not in the nature of the animal and it is his eventual downfall.

Monkeys are not stupid. They are, however, fundamentally acquisitive by nature and can be lured into dangerous situations where, under stress, they will make wrong value choices and suffer the most terrible consequences. Left to regain some composure, ponder its predicament, and regain full use of its reasoning faculties the monkey would eventually figure it out and save itself. However, the hunter knows this and the opportunity for the monkey does not arise. In the human sphere this typical primate response is called short-term thinking or materialism. Examples of the condition, as it applies to humans, abound, and the results are invariably detrimental and sometimes catastrophic – especially when the short-term thinking applies at community or national level and entire communities pay the price.

CATASTROPHIC OUTCOMES OF MORAL FAILURE:

Lack of moral integrity at group level reduces or negates the ability of individuals to develop to their full human potential - as defined by the generally enlightened contents of the South African Constitution, the basic precepts of ubuntu, the value systems of pre-colonial cultures worldwide, or by the application of reason and common sense as eloquently outlined in the following quotation from Thomas Paine: "I believe in the equality of man; and I believe that religious duties consist in doing justice, loving mercy, and endeavouring to make our fellow-creatures happy."

With this statement, the inimitable Paine concisely defines the fullest development potential of which any individual or society is capable. Ironically, Paine's proposal would undoubtedly have met with approval from Jesus himself - if not the later Church established in his name, but at odds with his pronounced principles in every material respect, as any examination of its grasping worldly ways would immediately confirm. The Christian model as a developing world religion is undoubtedly the finest example of moral failure on a grand scale. Eden after countless Eden lie violated and destroyed by this religious juggernaut and, in the African context, it is a faith that is neither indigenous to Africans nor even to the Europeans that introduced it.

What is clear is that pagan causal memory functions of both European and African have assimilated the Christian worldview through acculturation and, resulting from the corollary effects of private property and domination of a foreign materialistic socio-economic model, that further restrict the freedom of indigenous animals and people alike, coupled with the debilitating loss of self-worth associated with the concept of "original sin" it is by no means inappropriate to describe the Christian tradition as a self-perpetuating psychosis that, in first destroying the natural environment, assures the dependence and the compliance of all to its cruel and exploitative embrace. I'm under no illusion that my grandfather (many times removed) made a wrong value judgment and sold his soul (and mine) for the some worthless shiny trinket and the promise of "redemption" from the "sin" of being born a human. Having said which, it remains a curable condition that requires, first and foremost, the nourishment of clear thinking and the support of a worthwhile and morally defensible cultural value system.

How did the message of gentle ascetic who eschewed materialism and advocated human virtue and universal love become so terribly corrupt? Some 50 million Native Americans perished as a direct result of deliberate persecution, relocation, war, enslavement and disease visited upon them by people aligned with a supposedly moral God. To this total may be added somewhere between 10 and 30 million casualties of the African slave trade. The bison were slaughtered en masse (largely to starve the Indians and hasten the land grab) and left to rot on the prairie. Some hint of the sheer horror of this invasion can be gleaned from the writings of Fray Bartolome De Las Casas who recorded the following observations in 1552:

"(The Spaniards) made bets as to who would slit a man in two, or cut off his head at one blow; or they opened up his bowels. They tore the babies from their mother's breast by their feet, and dashed their heads against the rocks... They spitted the bodies of other babes, together with their mothers and all who were before them, on their swords... (They hanged Indians), and by thirteens, in honour and reverence for our Redeemer and the twelve Apostles, they put wood underneath and, with fire, they burned the Indians alive... I saw all the above things... All these things did my own eyes witness."

In numerous letters to the Spanish monarchs describing his voyages, and in his ship's log, Columbus himself says of the tribes he came into contact with. "They do not carry arms or know them. For when I showed them swords, they took them by the edge and cut themselves out of ignorance." Some time later he wrote: "They are so affectionate and have so little greed and are in all ways so amenable that I assure your Highnesses that there is in my opinion no better people and no better land in the world. They love their neighbours as themselves and their way of speaking is the sweetest in the world, always gentle and smiling..." The perennial violence and complete lack of empathy associated with global Christian expansion unveils the real face of this religion, and determines the true measure of its morally corrupt worldview.

NON-SECULAR CONSTITUTION:

A primary objective of this essay is to call into question the secularity of the South African Constitution and, ultimately, to propose that all references to God be eliminated from the constitution for reasons that I will make clear. According to Wikipedia's primary interpretation: "Secularism is generally the assertion that government practices or institutions should exist separately from religion or religious beliefs." According to Collins

Concise Dictionary "secular" means: "1. Of or relating to worldly as opposed to sacred things. 2. Not concerned with or related to religion."

According to the National Policy on Religion and Education on the government website: "A modern secular state, which is neither religious nor anti-religious, in principle adopts a position of impartiality towards all religions and other worldviews." Furthermore, under Founding Provisions on the government site it is proclaimed under point number 2 which is headed, "Supremacy of Constitution" that, "This Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled." Suffice to say that the definition of secularism seems clear and it seems equally clear that the South African Constitution cannot be said to be secular, as is claimed. In acknowledging God the constitution can also not simultaneously be "impartial towards all religions and other worldviews" and the "law and conduct" of Christianity is, beyond doubt, manifestly incompatible with the constitution and accordingly "invalid" or unconstitutional.

"The greatness of a nation and its moral progress can be judged by the way its animals are treated." These words were said by Mahatma Gandhi while, by way of contrast, the preamble of the South African Constitution omits any reference to the rights of animals and concludes with the appeal: "May God protect our people." In my opinion the omission of any reference to the rights of sentient beings (other than humans) suggests a fundamental constitutional deficiency. As I hope to make clear, this omission also highlights an incompatibility with the authentic species-inclusive precepts of ubuntu.

In excess of 80% of South Africans profess to be Christians and this raises some interesting questions. Why, for instance, is it necessary for an ostensibly secular constitution to include reference to God at all? Why does the constitution appear to discriminate in favour of one alleged deity whilst ignoring countless others – not to mention worldviews that exclude all belief in supernatural phenomena? How is it possible to reconcile the degree of hypocrisy suggested by those who claim allegiance to a "God of Creation" on the one hand while, on the other, make no effort whatsoever to respect or conserve for posterity what they themselves propose to be the direct work of a divine Creator?

Is it unreasonable to propose that an individual capable in setting a gin trap (banned in most "civilized" countries but still legal in SA) has not a shred of compassion in his soul and, as such, is someone who has not reached his full potential as a human being, and is equally capable of cruelty in the human arena resulting from his flawed character? And, in the final analysis, is the protection of the environment thus not a fundamental human right - an indispensable cornerstone of moral integrity, and a necessary advance from the narrow and inadequate confines of seeing human rights as a divided, unconnected and separate issue?

A cruel disposition relates to a causal memory function. Cruelty thus forms part of the person's entire personality, and is acquired through the direct example of parent and society. As such, it is also a reversible condition. By logical extension of Marais thesis, humans can be inexpressibly evil when unschooled in the art of empathy, and unsupported by a foundation of positive and enlightened cultural wisdom. As Marais also intoned, our strength lies in our faculties of reason and the ability to redeem ourselves through development of fresh causal memories.

Gin traps and snares are a morally bankrupt but daily feature of life in South Africa, and animals across the country are lying with shattered bones and mutilated limbs in these traps as you read this sentence - while the perpetrators of this barbarism go about their daily lives unhindered by conscience, shame or criminal charge. It is a national disgrace and an indictment of the entire human race! The traditional farmer in South Africa is someone historically seen to be a person with a Bible in one hand and a Mauser in the other and both, in my opinion, are equally dangerous encumbrances to authentic spiritual development and moral regeneration.

The Supremacy of the Constitution outlined under Founding Provisions states: "This Constitution is the supreme law of the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled." How is it thus possible that Judeo-Christian doctrine, which is filled to overflowing with criteria not consistent with the aims and objectives of our constitution, is formally acknowledged? The Bible, for example, advocates that God has nominated a "chosen people" which suggests that God is a racist. The only other alternative to this possibility is that God was invented by man, and that the authors of the doctrine nominated themselves as "chosen people" in order to acquire some advantage. There is clearly no evidence whatsoever that would stand up in a court of law to confirm the existence of the Judeo-Christian God or gods of any description, and accordingly no place in the constitution for association with the subjective and unsubstantiated beliefs of one religious group, their dogma or their deeds. Needless to say, this has nothing whatsoever to do with freedom to practice religion - which remains a matter of personal choice.

CHRISTIAN DOCTRINE

Thomas Paine's *The Age of Reason* (1794) is an incisive and thorough critique of institutionalized Christianity. Paine proposes that religion breaches the social organism through pretence of some special covenant with God and describes ecclesiastic authority and dogma as "pious fraud" which, originally, was cobbled together by a group of dissident Jews, whose identity remains as anonymous as their agenda. Paine, a deist himself, pulls no punches in his assessment of the Bible: "Whenever we read the obscene stories, the voluptuous debaucheries, the cruel and tortuous executions, the unrelenting vindictiveness, with which more than half the Bible is filled, it would be more consistent that we called it the word of a demon than the Word of God. It is a history of wickedness that has served to corrupt and brutalize mankind; and, for my part, I detest it as I detest everything that is cruel."

Despite his strong views and no-nonsense approach, Paine was a deeply compassionate man who believed in God and called only for Christianity to be liberated from its supernatural and political embellishments, and realigned with the moral teaching of Christ. It remains an enigma that Jesus himself (assuming such person actually lived) wrote not one word, and, reduced to its essential elements, his message advocates the virtues of love, compassion and respect. Paine's views on the contents of the Bible are incontestable, as any objective analysis of the doctrine would show, and this renders the Bible incompatible with the letter and spirit of the Constitution.

INDIGENOUS VALUE SYSTEM:

Ubuntu-botho broadly celebrates the same core values as Christianity, but is not impeded by a doctrine that promotes criteria foreign to the constitution. It appears to be

a superior choice from every conceivable perspective. Translated as directly as possible, it means "the art or virtue of being human" in *Ubuntu: The Essence of Democracy*, Mfuniselwa John Bhengu says, "There is no need for universal sameness. It is possible to respect human rights as well as all other values related to them and still maintain one's identity". Bhengu continues, "...the Zulus would say *Umntu ngumntu*. This is their way of saying the person defines himself in everything he does; that in every one of his thoughts, modes of behaviour and deeds he tells his family, neighbours, society, the world and the cosmic order what sort of person he is. The person and his neighbour are fulfilled when their personalities are improved by what they share. In this regard, the person and his neighbour are mutually-fulfilling complements".

This is the polar opposite of "original sin" and it is clear that whereas the Christian perspective creates doubt, suspicion and division, ubuntu contributes positively to the establishment of mutual trust and respect between individuals. The same degree of progressive thinking is discernible in the greater social arena. Bhengu describes it as follows: "...Zulu law, which is an extension of the Law, draws a distinction between guilt and culpability and seeks to focus as much on the person's willful desire to remain ignorant and lead an evil life as on his *society's failure to equip him and enable him to be the best that he could be*". (Italics added).

Bhengu's definition of ubuntu, like the South African Constitution, makes no attempt to consider the rights of Africa's animals, though he does allude to "human rights as well as all other values related to them" and this could conceivably imply the broadening of the precepts to include other sentient species. In any event, species-related discrimination and a cavalier disregard for the well-being of animals, is not a feature of any Earth-based culture anywhere or at any time, and it is unlikely in the extreme that the African concept of ubuntu would be out of step with such long-standing and well-established indigenous cultural philosophies. It seems far more likely that inherent human empathy and consciousness of the need for responsible environmental custodianship, that underlies all environmental awareness, and is the hallmark of indigenous people throughout the world, is simply not as prevalent in Africa today as it once was and that acculturation (revised causal memory) is the responsible agent of change.

In some ways the fading of environmental awareness in the African mind is like the disappearance of the age-old elephant migration routes, which are still there, but fenced and impassable now and visible only from space. I sometimes wonder whether the elephants themselves remember the sacred paths trod by their ancestors for millions of years and now ploughed up and fenced by people who cannot conceive of any other way forward, imagine themselves superior to nature and by some incomprehensible logic, justified by their religion to dominate, defile and destroy everything they touch. Is there anyone alive who can look at San rock art and not be compelled to believe that these early African people had a deep and abiding reverence for nature?

Such reverence for nature (whether one believes in God or not) is spiritually defined. It requires no greater definition, and it does not require the lighting of candles, a submissive body posture or a funny hat. It simply means being a person who is considerate of the needs of all other creatures, and respects their right to dignity and freedom along with those of his fellow-humans. However, in the context of the seeming confusion that surrounds the topic I would add that I personally consider the word "spirituality" to be a synonym for "ubuntu." In other words, if I may be so bold, and hopefully not seen to be labouring the point, spirituality may be further defined as the

attainment of the virtue of empathy or the spirit of ubuntu in the individual, which marks a culminating point in his spiritual development. As such, it reflects the flowering of that person's full potential as a caring and respectful member of the community, and confirms his position of trust as a responsible custodian of the natural environment and the legacy of the African generations to come.

The migration routes are gone and so are the people of that time. Despite which, the flame of ubuntu still flickers albeit in muted and remnant form. Furthermore, it should be recognized that, for most whites, that flame died over two thousand years ago, and the intervening time is so littered with the remains of broken treaties and so overgrown with lies and corruption and brutality, that the trail back to the point where European indigenous values got lost is quite impassable. Another way back to recapture the value system, and honour the wisdom of the ancestors must be found, and Africa is one of the few places I can think of where there's any kind of map at all. There is, however, much that diminishes the prospects of this objective being achieved, and without the support of brave and visionary African leaders, who are able to see the woods beyond the trees, and without constitutional underpinning, ubuntu will soon be extinct and Africa's opportunity to lead the urgently necessary spiritual renaissance lost – forever.

Credo Mutwa appears to provide an identifiably inclusive interpretation of ubuntu, and informed me of his opinions in this respect in conversation several years ago. Credo Mutwa also acknowledges and supports the concept of regenerating ubuntu as a basis for achieving a more humane society and informs that there was no word for "conservation" in the African language prior to the arrival of the Europeans. What is also clear from his interpretation is that ubuntu, in pre-colonial times, extended the circle of respect and empathy (its essential characteristics) to the animal kingdom as well. In this regard it would undoubtedly have been compatible with the cultural values common to Earth-based cultures worldwide. Hunting, for example, was a highly regulated activity in traditional African villages, with some species enjoying protected status and most hunting confined by tribal law to the provision of sustenance.

Furthermore, as I understand it, in traditional African circumstances people ascribed to a belief in reincarnation and inter-species transmutation of souls. The traditional African believed, quite literally, that the soul of his ancestor could be reincarnated as, say, an elephant and this belief gave rise to veneration of certain species and/or individual animals within the species. It follows that a very different relationship existed with animals in the days before the coming of the white man, and Credo Mutwa goes on to explain that animals were respected and seen to be creatures deserving of rights in much the same way as human beings. They were not perceived as objects of curiosity and were not gawked at voyeuristically as is the modern tradition. An African in those days, walking in the bush and happening upon an elephant might pause for a moment and greet the elephant verbally saying something like, "Good morning grandfather – may it go well with you today" before resuming his journey.

Interestingly enough, Nicky Warren coined the phrase "concestor" (a contraction of "common" and "ancestor") to give a more precise definition to the evolutionary certainty of common genealogical links shared by all species, and Richard Dawkins uses the term extensively in his book *The Ancestor's Tale*. In addressing himself to the elephant directly in a person-to-person way, it would seem that our wanderer of the bushveld not only reflects a tradition that finds echoes amongst indigenous cultures the world over, but was also affirming something which science now acknowledges – that humans stem

from the animal kingdom directly and that the elephant is, quite literally, grandfather or grandmother (many times removed) to every person on the planet. Our most recent common ancestor is the bonobo – a highly endangered species similar to the chimpanzee and commonly found in mutilated form in African bushmeat markets.

Aside from our elephant-friendly early African, the Native Americans' referred to all animals as "people" and were severely traumatized by the white mans' complete disregard for the sanctity of the environment. Interestingly enough, the modern American word for "earth" or "soil" is "dirt" and this speaks volumes about their overwhelmingly Christian worldview. There is much of value that "civilization" has trampled over, and this value is consistently overlooked in the insane rush towards extinction we call "progress and development" but which is usually nothing more than primitive greed, short-sightedness, lack of responsibility, lack of human moral and spiritual development, political expedience and sheer unadulterated stupidity.

Steven McFadden put it this way, "As we confront the complex problems of national and world cultures in transition, most people are looking for ways to move forward. While striving forward, we would do well to consider thoughtfully the voices that arise from Earth-based cultures, and to weave some of their enduring insights into the fabric of what we are creating for ourselves, our children, and our children's children."

Fine words – but we require more than fine words – we require urgent and immediate action! Furthermore, lest there be any mistake, I'm not advocating a return to the Stone Age, but rather a form of authentic progress and development that transcends the "universal sameness" of unacceptable irresponsibility towards the environment, and the lack of cultural integrity at all levels, that springs directly from the "divide and conquer" mentality of the colonial era. Empathy, by its very definition, is the power to understand the feelings and needs of another person or animal and, as such, it is in every sense a positive and personally empowering virtue that, in conformity with the concept of a Rainbow Nation, celebrates, supports and promotes diversity in every sphere of society and the natural environment. As a philosophical value system, rather than a religion, ubuntu has the power to unite South Africans across the social spectrum, whilst simultaneously encouraging diversity and protecting the rights of all sentient beings in an inclusive and non-discriminatory way.

Essentially it is about aspiring to be better people and to fulfill our true "potential" as human beings, in order to create a worthwhile legacy for future generations. There can be no higher human objective! To reach this objective, society needs to move away from the divisive and spiritually atrophying influence of Middle Eastern religious paradigms, sift carefully through all the wisdom at its disposal, consider every possibility on merit alone, and resist the unhealthy tendency to discard the wisdom of the ancestors (human and animal) merely because it doesn't comply with the prevailing assumptions of an arrogant materialistic social order, and the license to destroy in the name of mindless acquisition spawned by the truly evil and seriously primitive concept of "dominion over all the earth." Gandhi, who was imprisoned in The Fort (the very site now occupied by the Constitutional Court) said, "We must become the change we want to see" and this encapsulates my proposal well.

ROOTS OF MODERN DEMOCRACY:

The colonial history of Africa, in terms of essential characteristics, differs little from its American counterpart. The American experience is, however, exceptionally well documented and largely because I have a collection of books on the subject that are well written and illustrated, and also because Native Americans' developed the first working Constitution outside of ancient Greece (which relates directly to my submission) I have included some reference to the conquest of America.

Democracy to the Europeans arriving in America was an almost entirely unknown concept, and very far removed indeed from the autocratic, war-obsessed countries they stemmed from. The Spanish Inquisition (there were others) was established shortly before Columbus put to sea, and spread from Spain to virtually every corner of the globe having a lifespan in the order of 250 years. People were incarcerated for years without trial, tortured and blessed with the relatively painless form of death by garroting if they admitted their "crimes" and burnt at the stake if they did not confess. The inquisitors themselves were corrupt and guilty of far worse crimes than most of those they condemned, but remained almost entirely free from investigation or prosecution. The first victims were the "conversos". These were people who had converted to Christianity from Judaism, were suspected of continuing to observe Jewish religious traditions, and accordingly seen to be undermining the authority of the Church. Attention was later turned on the Muslim community and finally on their own kith and kin the "old Christians."

But even this degree of purging was insufficient to satisfy the insatiable bloodlust of the Church and entire families, tainted only by their relationship with the persecuted person (who was invariably guilty of nothing) were victimized and abused in every way imaginable over several generations. It seems the inquisitors quite literally considered the "sins of the father" to be hereditary. In sharp contrast to this barbarism, democracy was being practiced in an advanced form by the Confederacy of the Iroquois in pre-colonial America from whence it appears to have filtered gradually into the consciousness of the settlers, and influenced the later establishment of a democratic confederacy in what would become the United States of America.

The wampum of Hiawatha is a pictographic belt made from whelk shells. It predates Columbus and commemorates the formation of the League of the Hodenosaunee or Iroquois. This very early constitution contained values and laws not dissimilar to those embraced by our own constitution today and include the following injunctions: "In all of your...acts, self-interest shall be cast away...Look and listen for the welfare of the whole people, and have always a view not only in the present, but also the coming generations...the unborn of the future nation."

These were not "primitive" people but an advanced, dignified, eloquent, compassionate and predominantly peace-loving people. Some 70% of the food crops cultivated in today's world originate from their astounding agricultural achievements, and the ancient Mayan culture probably had more knowledge of astronomy than we have today. They understood the concept of precession which modern science discovered only with the advent of space travel. The priceless collective cultural wisdom of these people was put to the torch by the Conquistadors or soldiers of Christ and all but entirely destroyed. The systematic rape of this continent and its conquest by violence is one of the longest, saddest, most unpublicized and most profound events in human history. The Native

American people, thought to be primitive savages by the European settlers, are the founders of the democracy aspired to today.

COLLECTIVE WISDOM:

Ubuntu is an authentic African philosophy that finds reflection in other indigenous cultural value systems and modern religious paradigms alike. However, it remains a philosophy rather than a religion and is thus not divisive and has the potential to unite South Africans and provide the sort of moral platform necessary to support the long-overdue African Renaissance. The opportunity in this respect, as I see it, lies not in rigidly defining what ubuntu may or may not be, but in building a new ubuntu relevant to the modern era, that draws its inspiration from and is cast upon the original model, but takes its newly-defined collective wisdom from wherever it may be found and relies only on objective merit as a criteria. Hunbatz Men, Daykeeper of the Maya Nation, puts it as follows: "Wisdom does not belong to one person. We need to act in accord with wisdom but it does not belong to anyone. It is the illumination of old and proven ideas through generation after generation of discovering natural law."

Shelley too gives eloquent expression to the universal quest for positive social renewal:

The earth's great age begins anew
The golden years return
The earth doth like a snake renew
Her winter weeds outworn
Heaven smiles, and faiths and empires gleam
Like wrecks in a dissolving dream

QUALITY OF LIFE:

Improving the quality of life of all citizens, as already suggested, is a constitutional objective that is entirely subject to interpretation. A trekker across the Cape Flats in the old days described what he saw as a verdant paradise where animals were so numerous and so lacking in mortal fear of humans that, in the metaphor of the time, it was said that if you closed your eyes, pointed a rifle in any chosen direction and pulled the trigger, you would stand a fairly good chance of killing some living creature; and the trekkers, being humble and God-fearing people, had a great and unquenchable passion for killing living creatures. As an individual such an unspoiled environment is a more attractive proposition to me than, say, the CBD of a city where quality of life would be relatively poor by my own standard.

Pre-colonial African people lived in decentralized tribal villages and in general terms cared for the young and the elderly in their communities far better than is the case today. They enjoyed simple but highly independent and autonomous lifestyles, marked by a degree of freedom and egalitarianism quite foreign to the European. They did not have to devote 25 years of their life's energy to putting a roof over their heads. The traditional African owned the house – today the house owns him and in many ways the modern African is impoverished by comparison to his pre-colonial predecessors. As mentioned, it is not entirely clear to me that today's Africans are better-off than their ancestors and, as an individual, I perceive merit and value in simplicity, egalitarianism, modest material possessions, the holding of land in common, unspoiled wilderness, political autonomy and empowering, supportive, human-scale communities.

Is this regression? I don't think so. Much quality of life has been lost in the rush towards "progress and development" and it is not so much "going backwards" as it amounts to a reclamation of usurped human rights, and a retracing of steps taken along the trail to find what was lost along the way – whilst also keeping an open mind with respect to considering alternative social models on merit. What might such merit consist of? This is not really the subject of this essay, but, in my opinion, the criteria in such instance might equally be informed by ubuntu and consist of finding responsible ways forward on issues such as environmental custodianship, human impact as it pertains to farming practices, fossil fuel utilization, building materials, waste management, power generation and every conceivable subject related to human habitational and occupational activities in an authentically advanced and genuinely civilized cultural setting.

I believe the key point here is that pre-colonial Africans (and pre-Christian people in general) were responsible custodians of their environment and lived for a million years and more without a single "energy crisis" in admirably egalitarian circumstances, and enjoyed abundant measures of liberty, equality and fraternity. There are elements from these traditional societies that are worthwhile, and would undoubtedly contribute to quality of life today and promote the development of individual human potential. Relegating these options to the background and labeling them "primitive" is short-sighted and does not appear to honour those many generations of pre-colonial Africans who "worked to build and develop our country" as the constitution suggests - not to mention having a care to not defile and destroy their children's most valuable legacy.

CONCLUSION:

Point 8 in the Bill of Rights of the South African Constitution reads as follows:

"Everyone has the right:

- A. To an environment that is not harmful to their health or well-being; and
- B. To have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 1. Prevent pollution and ecological degradation
 2. Promote conservation; and
 3. Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."

Suffice to say in this respect that on a still winter morning in Cape Town, there is a nicotine-coloured cloud of contaminated air stretching along the flank of the Cederberg for 100 kilometers. Such is the degree of denial in contemporary society, that this sort of mindless desecration of the natural environment is deemed to be both necessary and acceptable, and consequently unrelated in any meaningful sense to "health and well-being." Furthermore, how is it possible, other than by virtue of a consciousness completely subverted by primitive instinctive impulses and diminished intellectual, moral and spiritual integrity, to justify strip mining or the poisoning of entire river and ground water systems by the mining sector as "ecologically sustainable development"? Letting

go of perceived prizes - even when their retention is injurious to the health and well being of people and planet, clearly isn't in the nature of today's "Wise Wise Man."

How is conservation "promoted" when species are becoming extinct, and when the pitiful remainder of Africa's wildlife are imprisoned by vicious barbed wire and subjected to ever-escalating exploitation, loss of habitat and reduced genetic integrity? And what do these things say of us - the perpetrators? Is "collective wisdom" an appropriate metaphor, when the predominant urges to which contemporary society weakly and consistently submits, have every indication of being directly associated with degrees of irresponsibility and immaturity that are as apparent and identifiable as they are regrettable? Is African society, as it were, aping the wrong cultural example and might we not do better with an indigenous model, shaped to optimum condition by our own direct needs, experiences and cultural values?

Whilst the intent of point 8 in the Bill of Rights is undoubtedly laudable, the reality of prevailing circumstances, together with the marked lack of interest in environment issues exhibited by contemporary Africans, reduce these statements to the level of well-meaning but largely irrelevant clichés. It is simply not good enough. A fundamental paradigm shift is urgently necessary and the dangers ahead are clearly indicated - if we care enough and are wise enough to take our collective hand out of the enslaving "gourd" of shallow material gratification, open our eyes to the greater opportunities beyond, and apply our allegedly superior intellect to the task at hand. It can be done, and the doing of these things is what African Renaissance means - the contribution of the African to spiritual enlightenment, individual empowerment and cultural maturity through the rekindling of ubuntu.

Where do the modern Haudenosaunee stand on these matters? Entitled "Path to Survival" the following is an excerpt from The Haudenosaunee Declaration in 1979: "Brothers and Sisters: We bring to your thought and minds that right-minded human beings seek to promote above all else the life of all things. We direct to your minds that peace is not merely the absence of war, but the constant effort to maintain harmonious existence between all people, from individual to individual, and between humans and the other beings of this planet. We point out to you that a Spiritual Consciousness is the Path to Survival of Humankind."

After half a millennium of cultural oppression and systematic abuse, it is clear that the Haudenosaunee still sing the songs of their ancestors and aspire towards a gentler social paradigm. The flame still burns. Such resilience in the face of adversity is as admirable as it is inspiring and a cause for hope. The Native Americans' speak of "walking again in the sacred way" while in Africa there is talk of ubuntu, moral regeneration and African Renaissance. It is two sides of the same coin and the value of this currency cannot be overstated. These voices of the ancestors tell us all we need to know of "full human potential" and it is a wisdom that requires acknowledgement and due respect.

This submission is put forward in the spirit of a positive criticism and it is to be hoped that this will shine through. It is also to be hoped that the merits of my argument will be measured objectively on a scale free from prejudice and unencumbered by irrational issues of faith. I can do no better than to conclude my argument with these words from the author of The Rights of Man, Thomas Paine: "I put forward the following work under your protection. It contains my opinion upon religion. You will do me the justice to

remember, that I have always strenuously supported the right of every man to his own opinion, however different that opinion might be to mine. He who denies another this right, makes a slave of himself to his present opinion, because he precludes himself the right of changing it. The most formidable weapon against errors of every kind is reason. I have never used any other, and I trust I never shall."

Ubuntu is both an indigenous value system and the most authentic and appropriate spiritual foundation for Africa's people. Sometimes referred to as the "religion of Africa" it is nevertheless more accurately defined as a moral philosophy and neither acknowledges nor requires reference or association with abstract supernatural phenomena in order to justify its existence. Ubuntu enshrines the collective wisdom and the aspirations of Africa's people in a truly evolutionary context, and pre-dates the currently dominant Abrahamic religious traditions by vast spans of geological time. As such, ubuntu represents the social vision and the rules of human conduct as defined and refined by Africa's ancestors since the dawn of time, and it is incumbent upon today's African people to recognize, honour and act upon this most valuable, potentially empowering, liberating and unifying cultural legacy.

The preamble of the South African Constitution concludes and rests upon the foundation of four words: "God Bless South Africa." For all of the reasons given, it is my contention that these words are inappropriate, largely irrelevant, divisive, fraught with questionable associations and do not facilitate optimization of opportunities to *"improve the quality of life of all citizens and free the potential of each person"*, as proposed by the constitution. It is societies responsibility to equip its people with the tools necessary to develop to their full human potential and to be "best that (they) can be" as Mfuniselwa Bhengu puts it, and reason would suggest that accomplishment of this objective is within our means, providing we have the courage to stand up for what we consider to be morally worthwhile social objectives; overcome the fear of change and the pressures towards conformity; think for ourselves; give deserving honour to our respective pre-Christian cultural roots, and start taking full responsibility for our own thoughts and actions as human beings. In short: to acknowledge the philosophy of ubuntu as a nation-building concept and as the basis for moral regeneration - through formal constitutional inclusion.

In the words of Robert Sobukwe: "Let me plead with you, lovers of my Africa, to carry with you into the world the vision of a New Africa, an Africa re-born, an Africa rejuvenated, an Africa recreated... We are the first glimmers of a new dawn and if we are persecuted for our views we should remember the African saying that it is darkest before dawn. Let us not fail the leaders who came before us."

Umuntu ngumuntu ngabantu.

In translation this central maxim of ubuntu means "A person is a person through other persons." As such it is a positive affirmation of basic respect and empathy for others - regardless of race, gender or religious persuasion. It is everything the Rainbow Nation aspires towards, and it is upon such secular and progressive foundation that the South African Constitution needs to take its inspiration.

As I have also endeavoured to describe, ubuntu in the 21st century also needs to reflect the importance of a respectful and responsible attitude towards the natural environment, which is under unprecedented threat and our clear and unambiguous duty to defend Full human potential, in the context of the modern era, is achieved when the person

demonstrates, through thought and deed, the virtues of respect and empathy for all life consistent with the ways of his pre-colonial ancestors and the values of ubuntu. Let us not fail the people who come after us.

PROPOSAL:

Resulting from the above considerations and in support of an urgently necessary moral and spiritual renaissance in Africa it is proposed:

1. That all reference to God be removed from the South African Constitution in order to:
 - 1.1 Confirm the secular status of the constitution.
 - 1.2 Comply with the provision that declares, "...law or conduct inconsistent with (the Constitution) is invalid," as such provision relates to religious laws arising from monotheistic Middle Eastern belief systems, and the resultant conduct of people influenced by their allegiance to such non-indigenous, constitutionally incompatible and accordingly "invalid" laws and value systems.
 - 1.3 Comply with the incontrovertible fact that there is no direct evidence of the existence of God.
 - 1.4 Confirm the unambiguous supremacy of the constitution as the highest law of the Republic, unimpeded or confused by association with "God's" law as defined by non-indigenous Judeo-Christian dogma.
 - 1.5 Provide opportunities for the regeneration of authentic moral integrity, based on indigenous social values and free from the influence of subjective religious faith.
 - 1.6 Assure "impartiality to all religions and other worldviews" as defined in the constitution.
2. That the constitution refer specifically to the philosophy of ubuntu and in doing so, acknowledge the relevance and the *de facto* influence of this indigenous, time-honoured, compassionate, moral, inclusive, untainted, non-discriminatory, credible and desirable social value system.
3. That the constitution establish and include basic rights to respect and dignity, in accordance with the precepts of ubuntu, for all sentient beings in recognition that "the injustices of our past" as they pertain to colonialism, apply equally to the exploitation of the people, the natural environment and Africa's animal order.
4. That "(freeing) of the potential in each person" as defined in the constitution be fully quantified and articulated in order that both the destination as well as the way forward can be clearly understood and rendered practically achievable.

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