

The Threefold Working Group

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16 May 1992

Dear *Secretary to the Management Committee*

TOWARDS A THREEFOLD CONSTITUTION FOR A NEW SOUTH AFRICA

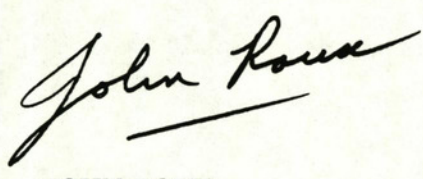
In the wake of the 'yes' vote in the recent referendum the way is now clear for continued negotiation towards a free, democratic, peaceful and prosperous South Africa. However, this will be far from easy, given the deep divisions, and divergent interests and viewpoints that exist in our society. What is now required is not merely clever negotiation and compromise, but a new shared vision, arising from creative yet practical insight into the social forms needed for the future. A 'win-win' solution is possible on this basis.

This document contains constitutional proposals based on the threefold functional nature of modern society. We need to apply the basic design principle of form following function, to consciously restructure our society in the optimum way. This approach is confirmed by positive trends in contemporary social development world-wide.

Please consider this proposal in the spirit expressed by Vaclav Havel, President of the Czech and Slovak Federal Republic, in his address to the U.S. Congress, February 1990 :

'The salvation of this human world lies nowhere else than in the human heart, in the human power to reflect, in human meekness, in human responsibility ... Are we still incapable of understanding that the only genuine backbone of all our actions -if they are to be moral - is responsibility? Responsibility to something higher than my family, my country, my organisation, my success.'

Yours sincerely



JOHN ROUX

Towards a
Threefold Constitution
for
South Africa



Liberty Equality Fraternity

'The healthy social life is found
when in the mirror of each human soul
the whole community finds its reflection,
and when in the community
the virtue of each one is living.'

Rudolf Steiner

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INTRODUCTION

South Africa today faces a number of critical development problems that complicate the transition from the old to a new political dispensation. It is becoming common wisdom with the world collapse of socialism that the state alone cannot solve the problems of housing, health care, employment creation, and education. A key debate thus concerns the relationship of politics and the state to the economy, with the free marketeers, apparently vindicated by events on the one side being opposed by neo-socialist proponents of mixed economies and state welfarism, on the other..

This Document Proposes a Third Option, which is a creative synthesis of the justified aspects of both the above positions. As such, it could form the basis for an optimum negotiated new dispensation and constitution, particularly as it resolves in a unique way the problem of cultural and group freedom, the rock upon which the good ship CODESA runs the risk of being wrecked.

This approach, best described as THREEFOLDING, proposes the independent organisation of economic, legal-rights, and cultural-spiritual-educational affairs, according to their different functions and purposes. In design theory and in nature the principle of form following function is well known - we need to use it now to consciously restructure our society. We stand at one of those rare moments in history when this is possible. If we are to succeed we need insight into the social forms necessary for the future.

The Threefolding of Social Organisation is an emerging trend in history, corresponding to the evolution of free, individualised people, and the modern social ideals of liberty, equality, and fraternity. It is not a utopian ideology to be imposed, but an evolving reality, to be pragmatically facilitated.

Threefolding was first proposed by Rudolf Steiner (the Austrian philosopher better known as the founder of Waldorf Education), as basis for the reconstruction of Europe after World War I. Had this proposal been adopted, the European Economic Community could have come about at that time. However, the Fourteen Point Plan of American President Woodrow Wilson prevailed, re-establishing nationalism and leading directly to World War II.

Our Challenge in South Africa is to create new social forms beyond those of existing societies, learning from their failings and positive features, but achieving a new synthesis. Can we continue to surprise the world, and show the way to a future they too are unconsciously seeking, by being the first to consciously bring about the threefold organisation of society?

SYNOPSIS**PART I - THE THREEFOLD FUNCTIONAL NATURE OF SOCIETY**

1. Early societies were monolithic, but in modern societies three functionally different sub-systems have emerged -
 - * the economy, providing goods and services
 - * the political-legal-rights life, or realm of government
 - * the spiritual-cultural-educational realm, serving individual development

2. The modern social ideals of Liberty, Equality, and Fraternity, rightly understood, apply to the spiritual, political, and economic functions respectively.

3. Form follows function. This is the basic design principle, recognised by systems thinking. We need to apply it in consciously facilitating the independent organisation and governance of -
 - * spiritual-cultural-educational organisations
 - * political-legal-rights realm, and
 - * economic functions in society.

This will enable -

 - * a free, diverse and creative spiritual life
 - * a just and democratic, minimal government rights state
 - * a self-organising, needs-orientated and productive free market economy.

4. The complex systems of modern society function best as integrated networks. The old centralised, hierarchic and authoritarian social forms have proved unworkable, hence their collapse in Eastern Europe. The trend is from imposed control based on power, to free co-operation and co-ordination based on understanding and responsibility. Threefold social organisation is the antithesis to totalitarianism, and is the form needed for a free, just and democratic, and prosperous society.

PART II - KEY PROPOSALS TOWARDS THREEFOLDING

This section concentrates on the implications of threefold social organisation for the political or legal-rights realm, as this is central to the creation of a new constitution and form of government. It takes the form of 12 proposals -

- I. A rights-state government, functioning only to establish and protect human rights, and to promote social justice, by means of the law. Substantive rights for the needy could be furthered by redistributive funding, but government should not be involved in service provision, production, or distribution, as these are economic functions.

A rights-state government has many advantages, namely -

- * small, efficient, low cost, low taxation
- * more visible, democratic, open and accountable
- * less patronage and abuse of power
- * unable to mismanage economy, or impose ideology in education
- * facilitates rule of law rather than rule of power
- * strengthens civil society

II. Intensive democracy with regular and meaningful participation. Referendums and popular initiatives enable direct choice on public issues.

III. Appropriate decentralisation of legislative and executive powers to regional and local government enables intensive democracy, and accessible and accountable government.

Federalism is a way to entrench strong local government and check over-centralisation of power, not to compartmentalise competing groups in mini-centralised states.

IV. Visible government. Politics in a democratic society is a public domain, and all political decision-making and processes of government must be open to public scrutiny. The media must serve as the eyes and ears of the public in this regard. Increased financial disclosure is essential.

V. The powers, and therefore functions of government must be defined, separate, and limited. The best features of constitutional models elsewhere can be drawn upon to achieve an optimum form of government.

VI. Economics is not the business of government. A self co-ordinating, associative economy requires an Economic Co-ordinating Council to replace government's role in macro-economic management. Government needs to deal only with legal and rights issues in economic life.

VII. Freedom in an independent spiritual-cultural-education life must be guaranteed by the rights-state and law. This is the realm in which diversity can find expression and flourish.

VIII Education is not a function of government and the political-rights life. The world-wide crisis in education is in many respects due to state control. Independent schooling can better provide quality education for all, with appropriate subsidisation.

IX. The autonomous management of national finances by a properly independent Reserve Bank is essential, to control the financing of government via borrowing and the creation of money not backed by economic realities.

- X. The three independently organised functional sub-systems need to co-operate via processes of negotiation and joint working. In bilateral negotiations, the representatives of the third realm can play a mediating, facilitating role.
- XI. International cultural, political and economic relations are mostly independent. This will increase with internal threefolding.
- XII. Threefold functional organisation needs to be specified as the basis of a new constitution, in its opening paragraphs.

PART I

THE THREEFOLD FUNCTIONAL NATURE OF SOCIETY

'Every plan that does not conform to the organic
development of the human race is doomed'

Novalis

THE HISTORICAL DEVELOPMENT OF THE THREE ASPECTS OF SOCIETY

Ancient Egypt typifies early civilizations in which spiritual life predominated. All aspects of society were ordered by priest-kings and priests who embodied the rule of heavenly powers on earth. There was as yet no political order or civic law apart from those of the all-encompassing religious life. Economic life was also directed by the ruling priestly class in trade, agriculture, architecture, and other practical affairs.

At this time social life was a unity within the hierarchically ordered religious-spiritual life, which guided the development of the generally dependent, not yet self-conscious human beings.

The Greek and Roman Civilizations represent a new phase of social evolution. The beginnings of democracy first appear in the Greek city-states, and political life becomes independent of the spiritual life. This is fully achieved in the Roman civilization where the political order eclipses the religious life. Politician-generals now rule instead of priest-kings, and individual citizens with property rights confirm the establishment of earthly, civic law. With increasing intellectual application in military and practical affairs, the Romans conquered the then known world.

The Middle Ages are characterised by the resurgence of religious life arising from the development of Christianity and Islam, and though political life comes under the sway of religious influences, Church and State now stand side by side, and are never fully united as in Egyptian times, leading often to conflicting loyalties to temporal and spiritual orders. The say of Christ 'My kingdom is not of this world' confirmed this separation.

The Present Age, beginning in the fifteenth century reveals a new development which only now becomes fully apparent - the emancipation of economic life from its previously instinctive, nature-bound form. Driven by technologies born of natural science, economic life has today become the dominant sphere of social activity. The political state only retains its hegemony by controlling vast areas of the economy. It is symptomatic that in developed countries politicians are today judged primarily on the effectiveness of their economic policies.

An evolution of consciousness parallels this historical development. Human beings grow from being spiritually oriented and dependent, through a phase of growing self-consciousness and social and practical awareness, to a state of independent individualism, outward focus, and the ability to master the material world.

In the course of history, political and economic functions have become emancipated from their former unity with the spiritual life. The challenge of our times is to consciously bring about the differentiation and independent organisation of these three functional subsystems, that their proper development and co-operation may come about. This threefolding of social

organisation is necessary to the creation of a free, just and democratic, and prosperous, yet humane and healthy society.

2. THE EMERGING THREEFOLD FUNCTIONAL NATURE OF SOCIETY

In modern societies three qualitatively different functions or spheres of activity can be distinguished, corresponding to the threefold nature of the human being.

The Economic Realm functions to transform nature in the service of human needs, in so far as we are earthly, physical beings. 'Eco' means of the earth. The production, distribution, and consumption of commodities, and the provision of services related to the material life-base of society is the true role of the economy.

The Political-Legal-Rights Life, the proper domain of government, serves to define rights and establish justice by means of law. In a modern society there is the legitimate expectation that government be democratic, to ensure equality and social justice, and to check the power of those who govern. The ideal of democracy is that free people participate in forming the social contracts or agreements by which they live. Lincoln's famous formulation of democracy as "government of, by, and for the people" expresses this. The political-legal-rights realm exists in so far as we are social, yet at the same time anti-social beings.

The Spiritual-Cultural-Educational Realm is concerned with human development, and includes everything not belonging to the economic or political functions. Education is its heart, and it is clearly inappropriate from a functional point of view that governments control education. Science, religion, art, the media, sport and recreation likewise belong to this realm, which serves to develop people and their capacities, as individual spiritual beings. This does not imply that these organisations should not be economically viable, or even in some instances profit making. Various legal forms are possible, and people need to be free to decide what is appropriate and workable in specific instances.

Clearly, at every point in social life and in all organisations all three functions interact - but what is necessary for them to do so in a healthy way is their independent rather than centralised organisation. Recent events in Eastern Europe have conclusively demonstrated the failure of centralised management and planning by monolithic state systems.

The problem with most social thinking and practice, however, is that it concentrates on political-economy, and generally treats cultural-spiritual-educational processes, if at all, as mere appendages of the state and/or economy, and not as an independent functional realm of equal status, and of critical importance to the health and development of the other functions, and society as a whole.

3. LIBERTY, EQUALITY, FRATERNITY

The three great modern social ideals of Liberty, Equality, and Fraternity, rightly understood, apply to the spiritual, political, and economic realms respectively.

Liberty is the Principle in Spiritual-Cultural-Educational Life, where individuals are not equal in their abilities, and need to be able to develop themselves to the fullest in self-chosen directions. Individuals are the only source of creativity, initiative, and responsibility, and through self-development each is better able to contribute to society. Whether they will in fact do so depends on their moral development, which is also the concern of this realm.

Neither individuals nor communities are the same, and all need to be able to associate freely and freely choose different languages, religions, cultural traditions, and approaches to education. All attempts to deny this freedom inevitably create conflict.

Equality is the Guiding Ideal in Political-Rights Life. Irrespective of individual abilities or levels of development, human beings should be equal in terms of basic human rights, and before the law. Substantive rights are also increasingly recognised as countries develop, reducing extreme inequities through the functioning of the state. However, overall living standards rise as a result of the dynamism of the economy, and not the intervention of government.

Fraternity is the Ideal in Economic Life, and indeed the unrecognised reality, for with the complex division of labour in the modern economy there is inevitably a high degree of co-operation, co-ordination, and interdependence. In reality we all work for each other, and are dependent on the work of others for the products and services we need.

Through education of a new social consciousness we need to re-awaken a responsible connection to society, and indeed to humanity as a whole, for world economy is a growing reality. This also becomes possible when people participate as equals in a just and democratic rights life that safeguards their human rights, and as individuals in a free cultural-spiritual-educational life, which nurtures their full humanity and individual potential.

In organisations, the 'organs' of society, brotherhood and the meeting of the needs of all can develop to the extent that there exists a healthy balance between liberty, which encourages individual abilities and initiative, and equality, which acknowledges the humanity and rights of each co-worker.

4. THE NEED FOR CONSCIOUS THREEFOLDING OF SOCIAL ORGANISATION

We need to recognise the three functionally different processes or spheres of social activity that have emerged in the course of history, and to organise society accordingly. This requires the independent organisation of spiritual-cultural-educational activities, the political-rights life, and the economy. Each can then develop according to its inherently different purpose, needs, character, and function, and so make an optimum contribution to the whole. The appropriate integration of these functions is best achieved through the healthy and independent development of each.

Independent Cultural, Spiritual, and Educational Organisations are best able to develop the human abilities and qualities needed in the rights and economic spheres. When in direct and responsible relationship to those they serve, educators will soon become practical and realistic regarding life's requirements.

A Minimal Government Rights-State, is the best basis for the development of true democracy, social justice and human rights. Small government is not necessarily weak government. Though a rights state government would be divested of economic power, and the possibility of determining human development, it could extend its legitimate power with regard to the protection of human rights into these areas, according to the general rights consciousness.

A Self-Organising and Co-ordinating Economy, free of political management is best able to produce the necessary goods and services. Centrally planned command economies are a proven failure, yet there is clearly the need for macro-economic co-ordination and development planning. This needs to be undertaken by those involved in economic life, and not by politicians, though rights-related issues such as taxation would be negotiated with government.

The Antithesis to Threefolding is the Totalitarian State, which instead of independent organisation and negotiated co-ordination of the three functional subsystems, centralises control over all spheres of life in a single hierarchy, thus maximising the power and dominance of a ruling elite. The now obvious failure of monolithic state systems is the failure of such centralised social organisation, which is inappropriate in a modern, complex society of increasingly free and responsible people. However, in non-socialist countries, big government, with high taxes and huge deficits is now recognised as a major cause of economic stagnation. Current trends world wide to privatise state economic activity and cut government bureaucracy, spending, and tax are pragmatic, necessary and healthy moves in the opposite direction, towards threefolding. What is now needed is to free education from state control, as the prerequisite for addressing the world-wide crisis in education and cultural life, and to make all production and service provision independent of state control and management.

5. FROM HIERARCHIES TO NETWORKS

Hierarchic structures are being found increasingly inadequate and inefficient in the management of large and complex organisations. Characterised by centralised, authoritarian control, 'superiors' and 'subordinates', and poor communication between levels and functional departments, they tend to be inflexible, unresponsive, slow, change resistant, and demotivating.

Nature in her wisdom has never worked in that way - living, organic systems are self-organising and functionally differentiated, yet integrated as complex networks, with form and structure always following function. Modern trends in organisation development, based on systems/process thinking take the same approach.

The Prime Natural Example is the Human Body, where metabolic, rhythmic and nervous systems are differentiated functional networks, with separate centres in brain, heart, and organs of metabolism.

To begin to comprehend the complex reality of society we need to think/see in living/organic/processes, rather than structural-mechanical terms, particularly as social life is increasingly formed by our thinking and consciousness. Dead, abstract thinking will produce ideologies, resulting in dead social forms, unsuited to free human beings.

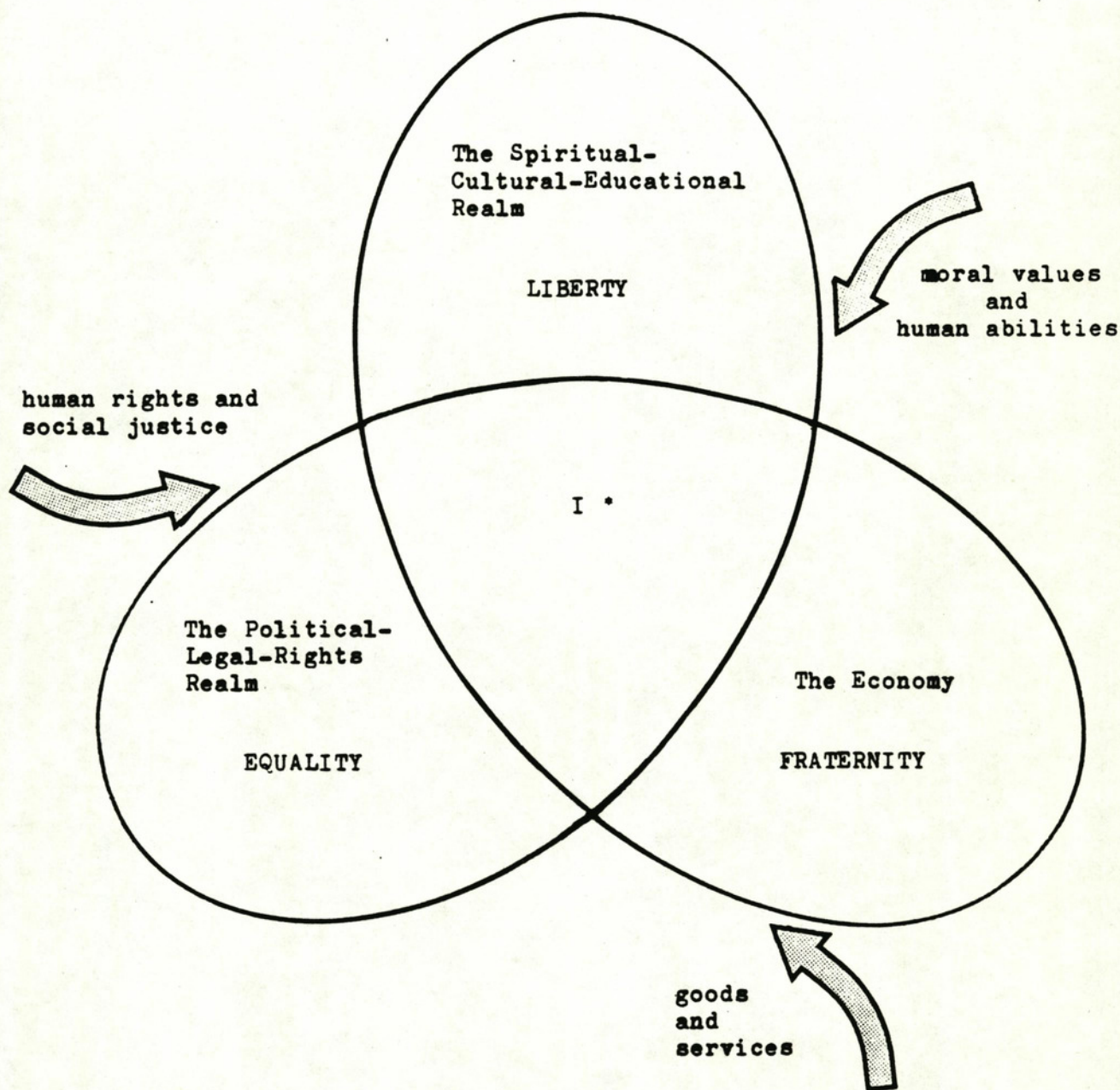
Threefold Organisation of economic, legal-rights, and spiritual-cultural-education subsystems is an organic, living and flexible approach that corresponds with functional reality. It facilitates the appropriate working and healthy development of each, and a balance and developmental tension between different functions, forms and sites of social power. The variety of organisations and networks diffuse power, creating a rich and strong civil society functioning on the basis of the negotiated co-operation of free and responsible individuals. For this reason the freedom and health of the educational-cultural sphere is crucial to its development. The quality of a free and democratic society depends on the consciousness of its citizens.

The threefold option can thus never be imposed, but needs to be facilitated into being through social insight, awareness, and responsible participation. As such it is not another ready-made solution, but an evolutionary approach that indicates healthy directions for social development. It needs to be evolved from the reality, and according to the needs and possibilities of a particular situation.

The evolutionary trend towards threefolding can be seen in the development of modern history. All attempts to establish or maintain centralised, monolithic social systems, or the vestiges thereof, are regressive and antithetical to the development of free human beings and free, just and democratic, and prosperous societies. The challenge in an age of dawning freedom is to consciously bring about what is historically appropriate.

6. THE THREE FUNCTIONAL SUBSYSTEMS IN SOCIETY

(This diagram is only an aid to conceptualising, and not a representation of the complex flow of interpenetrating processes in social life.)



- * Every individual person and organisation lives in the midst of all three processes, though they may work primarily in one or other function.

Threefold thinking recognises the human being rather than any power, structure or system as the heart of social life.

PART II

TOWARDS A THREEFOLD CONSTITUTION

*

12 KEY PROPOSALS

'That government is best which governs least'

Thomas Paine

PROPOSAL I - A RIGHTS STATE GOVERNMENT, FUNCTIONING ONLY TO ESTABLISH AND PROTECT HUMAN RIGHTS, AND PROMOTE SOCIAL JUSTICE, BY MEANS OF THE LAW AND ITS ADMINISTRATION.

This proposal defines the proper function of government, to which it needs to be constitutionally limited. Elected representatives are essentially legislators, whose rightful business is the formulation of laws which protect all individuals and their rights equally, and promote social justice, peace and security. Civil servants and the executive should serve only in the administration of law, and be directly accountable to democratically elected legislators.

Fundamental Human Rights need to be equal for everyone, and be constitutionally guaranteed. These include protection of life, liberty, and personal property, and freedom of speech, association, movement, contract, political participation, etc. According to the spirit of the times, this is generally accepted, and adequately set down in various Bills of Rights.

Substantive Rights are implied by social justice, and concern relative equality of conditions. However, the rights to education, medical care, employment or unemployment benefits, housing, a minimum income, pensions, and so forth, unlike basic rights, all have an economic dimension, and cost money to provide. The extent to which these can be granted to the needy, who cannot provide for themselves, depends on the availability of resources in any particular society.

In practice, societies progressively extend substantive rights as their economic means and general social consciousness develop. The level of substantive rights in any actual situation needs to be negotiated by government with representative organisations of the economic and cultural-spiritual-educational spheres.

The more important debate concerns not whether, but how best to realise substantive rights, which involve economic processes, products and services. Experience shows that the best way is to raise overall standards of living through high economic growth and employment creation in a market economy, making more people productive and independent, rather than by expanding state welfare, with more people dependent on handouts funded by higher taxation, and resulting in low economic growth.

Redistributive Funding is sometimes a necessity, and most governments direct part of the money raised by taxation to the funding of social services, which guarantee varying levels of basic substantive rights for the needy. However, governments should not be involved in direct service provision. Social services can be more efficiently and cheaply provided by independent organisations, and publicly funded via contracting, direct funding, or funding of people needing specific services. Such organisations can be independent, though not necessarily privately owned, profit-making businesses.

In this way government can facilitate social justice without directly providing goods and services, and building costly, monopolistic and inefficient bureaucracies in the process.

Advantages of a Rights State Government

- * able to focus on human rights, social justice and equality
- * less influenced by economic, cultural or ideological interests and biases
- * smaller, less bureaucratic civil service
- * less expensive, and more cost-effective service provision by independent economic organisations rather than state departments
- * lower taxes enable high economic growth and employment levels
- * more visible and transparent to public scrutiny in its working
- * enables intensive, participative democracy in that it deals with rights issues which the public in general are able to comprehend
- * less able or likely to abuse power or develop as a system of patronage
- * unable to mismanage economic development - required to negotiate financial and economic policy with economic and cultural-spiritual-educational spheres
- * unable to impose ideology in education, in cultural life in general, or in the economic realm
- * defuses political power struggles, as there is less power to be had, and less scope for advancing group interests (except in pursuit of justice), as these find free expression in the spiritual-cultural-educational realm
- * enables the appropriate independent development of economic and cultural, spiritual, and educational functions, within an impartial framework of legal guidelines
- * strengthens civil society by encouraging various sites and types of social power, independent service provision, and community building
- * emphasis on the legal and rights nature of government strengthens the rule of law as opposed to the rule of power.

PROPOSAL II - INTENSIVE DEMOCRACY FOR ACCOUNTABLE GOVERNMENT

Does the right to cast one vote, once every five years, for a particular party's candidate to sit in some distant parliament, constitute meaningful political participation? This arrangement seems designed to insulate and enhance the power of politicians and governments, and to ensure apathy and acquiescence among citizens.

The aim of intensive democracy is to enable the maximum popular participation in the processes of the political-rights life. This ensures that governments and politicians more directly represent, and are accountable to, those who elect them, not only in general but with regard to specific issues, and on a regular basis. This is the only way to approach the ideal of democracy as 'government of the people, by the people, and for the people.'

The following are essential means to realise intensive democracy, that have proved to be successful in practice elsewhere:

Meaningful Local and Regional Government brings government close to the people, enabling involvement, consultation, reporting back and dialogue. Representatives are known and regularly elected. People learn democracy by practising it at community level. A strong democratic culture needs to be built from the ground up, and cannot by definition be imposed from the top down.

Direct Participation via Referendums and Popular Initiatives enables people to vote on issues. This is essential as individual views and choices will not correspond with those of one's representative on all issues. Empowering people to make direct choices defuses inter-party power politics and government manipulation.

Popular initiatives enable citizens to call a referendum, if they can demonstrate a required percentage of popular support via a signed petition.

Referendums should be constitutionally required in order to approve proposed amendments to the constitution, or on any matter that affects the entrenched rights of individuals.

Referendums can also be used to resolve deadlocks or controversial issues in or between decision-making bodies of government, or in negotiations between government and economic or spiritual, cultural, and educational co-ordinating bodies.

The Rule of Law and Constitutional Democracy in stable societies mean a general acceptance of the civic equivalent of the 'rules of the game' which apply equally to all, and stand above the inter-play of conflicting interests, and indeed form a basis for common respect and loyalty. In such situations politics becomes less important, as rights and justice are institutionalised to the satisfaction of most people, who then prefer to get on with their lives in economic, spiritual, cultural and educational (including personal and social) activities. Intensive democracy does not necessarily mean an over-emphasis on political matters. Good government as government by exception develops, and the notion of government as 'ruling over' becomes an anachronism.

PROPOSAL III - MEANINGFUL REGIONAL AND LOCAL GOVERNMENT

Highly centralised government tends to exhibit the following problems:

- big, bureaucratic, slow, inefficient
- expensive, and wasteful of financial resources
- hierarchical, top-down command style
- concentration of power, and therefore greater potential for abuse and monopolisation of power
- distant, inaccessible and unresponsive
- mistakes and bad policy tend to become 'national disasters'
- tend to impose standard national policies irrespective of regional differences and preferences
- doesn't encourage regional freedom of choice, differences, experimentation with and proving of different policies

Meaningful Local and Regional Government solves these problems, and is essential for intensive democratic participation, and an appropriate differentiation and balance of responsibilities between central, regional, and local levels.

What we need are real democratic structures and processes at a regional and local level, that are constitutionally entrenched, and cannot be subverted by any central government. This means that local and regional government is controlled by elected representatives from the region, directly accountable to the local population, and not by centrally appointed civil servants.

Strong regional government distributes power and empowers people on a community level. It also provides a democratic basis for constituting one house at central government level, which will be more sensitive to regional issues and interests.

Regional government would operate within the framework of the national constitution, Bill of Rights, and national law, and would serve to implement these in its region. On the other hand there would be constitutionally specified areas in which regions could legislate, and develop and implement their own rights policies, as supported by the majority of people in that region.

Federalism

Federalism is proposed by many groupings, including the National Party, the Democratic Party, Inkatha, and various 'Homeland' parties. It is opposed by the ANC, who as a perceived majority party in central government, see federalism as limiting their power to effect national reconstruction.

Others see it as a way of defusing conflict by accommodating ethnic and ideological differences, as federalism enables a regional majority party to differ from the national majority party, on a democratic basis.

The Main Argument for Federalism is, however, that it entrenches strong regional government and checks over-centralisation of power. A federal constitution would ensure this, but any model that establishes strong local and regional government that is directly elected by and accountable to people in that area will be beneficial, and enable the development of intensive democracy. What we need is not one person one vote once every five years, but one person many votes, on different levels, and on a regular basis. The only realistic way to achieve this is to build meaningful democratic processes and participation from the ground up, on a community, city/district, and regional, as well as on a national level.

Real Democracy on All Levels will be greatly facilitated where government divests itself of direct economic and educational responsibilities, and functions as a rights state that deals only with rights issues in all spheres of society.

With threefolding, political power becomes less all-encompassing, and therefore less necessary or desirable, being counter-balanced by the independent organisation of economic and educational affairs. This means that whatever the prevailing politics of a region, different language, religious and cultural communities would be free to have their own independent, equally subsidised schools, and to maintain all other aspects of their cultural identity.

Inter-group Conflict is best defused not by tying cultural interests to political power on a geographic basis, but by separating their organisation completely. Where, as in S.A., there is a variety of cultural groupings in all regions, threefolding is the only solution, and needs to be constitutionally entrenched.

Federalism is a positive option, not because it will compartmentalise competing groups, but because it counters over-centralisation and big government, and makes meaningful and intensive democracy possible. The need is to create accessible, appropriate, and democratic regional rights organisation, and not mini-centralised states.

PROPOSAL IV - VISIBLE GOVERNMENT. ALL POLITICAL DECISION-MAKING AND PROCESSES OF GOVERNMENT MUST BE OPEN TO PUBLIC SCRUTINY.

'Justice must not only be done, but be seen to be done'.

This principle needs to apply not only to the judiciary, but to all aspects of government. In a democratic society, political processes and government as a whole are public domain, and there can be no excuse for any secrecy or concealment, which always serve the ends of manipulation or corruption. (Secret voting is an obvious exception). Politicians and civil servants are about public business, and we have the right to know exactly what they are doing, and how they are doing it.

All political decision making processes need to be openly accessible to public scrutiny, to prevent corruption, partiality, manipulation or injustice. If citizens are to participate in an intensive democracy, they need to be fully informed on all essential issues, by independent media.

The Media need to be understood as organs of the cultural life, responsible for presenting truthful and impartial content according to agreed professional standards, though free to differ in their editorial viewpoints.

There should be no official state media, except for the publication of laws - we can do without 'his master's voice'. A range of independent media not manipulated by financial or political interests, with full access to the processes of political decision-making is the only guarantee of clean government, and the only option worthy of a free, democratic society. The motives of any government that does not accept this are undemocratic and suspect.

The above democratic rights of citizens and the media as their 'eyes and ears' in a free society need to be entrenched in the constitution.

The Office of Ombudsman, with constitutionally guaranteed access to all government proceedings and records needs to be established as an aspect of the independent judiciary.

Increased Financial Disclosure is essential for all departments and levels of government, including city councils, and for all government subsidised organisations. The regular publication in the press of essential, understandable summaries of financial figures should be legally and constitutionally required. After all it is our money they are spending, and their debts are incurred on our behalf. We need to know how deeply we are in debt, and how much we are spending, on what, and why, so that as citizens we can take responsibility. Otherwise, democracy becomes a hollow sham.

PROPOSAL V - THE POWERS, AND THEREFORE FUNCTIONS OF GOVERNMENT MUST BE DEFINED, SEPARATE, AND LIMITED

The separation of legislative, executive and judicial functions provides checks and balances which counter the abuse or over-centralisation of power. The American constitution and form of government provides the primary example of this model. However, the growth of U.S. federal government bureaucracy, together with the role of the President and executive in preparing and promoting legislation, have shifted power in favour of the executive. What is proposed here is a different approach to the separation of powers, to counter this unhealthy tendency.

The archetype behind the threefold organisation of government is that of the human faculties of conceptualising, judging, and doing, relating to legislative, judicial, and executive functions respectively.

The Judiciary must be properly independent, with appointments entirely beyond the control or influence of government. The independent evaluation and interpretation of legislation in terms of the constitution, and judgement regarding the constitutional legality of actions of government, is a key function of the judiciary. In this respect it serves as guardian of the constitution, and the practices of constitutional democracy.

The Legislature needs to perceive social reality and conceive laws that will further justice, harmony and balance in social relationships. This is possible through the representation and real hearing of, and negotiation between, all points of view. Representatives should be elected on the basis of proportional representation. The legislature is thus sovereign with regard to the making of law, but subject to the constitution, and judicial review.

The Executive needs to selflessly administer the laws created by the legislature, with no political agenda of its own, and uninfluenced by the lobbying of sectional interests. With a rights state government, civil servants will be only a small proportion of the population, and will not constitute a powerful interest group. Executive staff need to be appointed on ability, as are management in any other organisation, and to be accountable to the legislature, not in every detail, but for the fulfilment of particular mandates.

The Senate or second house of the legislature could, apart from approving legislation, mediate between parliament and the executive should this be necessary, and evaluate the workings of both on an ongoing basis, whereas the judiciary would perform this function only where actual disputes arose, which would then be brought before it. The senate would thus serve primarily an evaluative function within the legislature, to compensate for the externalisation of this capacity in the judiciary.

The senate would in this way play a facilitative and developmental role, hopefully becoming a body characterised by the higher wisdom of statesmanship, and less motivated by sectarian and party political interests. Indeed, these qualities could be selection criteria for the approval of candidates, and the position of senator would be one worthy of the aspirations of true representatives of humanity.

It could be a requirement that senators sacrifice all party political affiliations, and stand as individuals representative of their regions, committed to an impartial and objective approach.

Standing Committees of Legislators would work on policy proposals and legislation, and here representatives of all parties would co-operate. Senators could play an observing, evaluating and facilitating role on these committees, and members of the executive could be consulted or involved as necessary.

Leadership Roles should not confer too much power or prestige on single human beings, yet strong, moral and inspiring leadership must be enabled. The following is a possible approach:

A Prime Minister could be elected for three years by all representatives in parliament as head of the legislature, and chairperson of the Cabinet. Cabinet Ministers, elected or confirmed annually in parliament, would chair standing committees consisting of representatives of all significant parties.

Ministers and their committees would be responsible for drafting legislation on all internal affairs, and appointed chief executive officers in the different functional areas would be accountable to them. The Prime Minister and leader of the legislature would be head of government with regard to internal affairs.

The President could be the elected leader of the senate, and head of government with regard to foreign rights relations. Economic and cultural realms would establish their own international relations, and act in concert only on issues such as trade barriers, that involve both rights and economic aspects.

The above arrangements would enable coalition government, require and facilitate inter-party co-operation, and allow for capable people to play appropriate leading roles irrespective of party alignments.

In terms of numbers in the houses, a balance needs to be struck. Too large a group is inefficient and unwieldy, too small a group may not be sufficiently representative. 120 representatives in parliament and 40 to 60 senators would be reasonable. A further advantage of fewer representatives is that they will be more visible and therefore accountable. Strong and effective regional government also means that people are well represented on that level, allowing for a smaller central legislature, dealing with fewer issues.

PROPOSAL VI - A SELF CO-ORDINATING, ASSOCIATIVE ECONOMY

Economics is not the business of government. The function of government is to establish the legal and human rights parameters within which business can function. To do this impartially and on a democratic basis, government must be independent of all economic processes and interests.

Historically, economic interests were tied to national states, and governments became increasingly involved in macro-economic planning, and economic provision seen as necessary, but either unprofitable, or beyond the means of private enterprise. This latter aspect is being rapidly reversed by the successful worldwide privatisation of state enterprises, but governments remain entangled in macro-economic management and provision of services.

What is needed is to create responsible economic associations to co-ordinate economic affairs, and replace all state economic planning and management. The economic sub-system needs to develop its own independent governance, concerned with the rational co-ordination of production, distribution, and service provision to meet needs.

An Economic Co-ordinating Council is required at national level, consisting of leaders, representatives, and experts in the economic sphere. The elements of an associative economy exist in organisations such as SACOB, unions, and the Consumer Council, but they operate as antagonistic interest groups. What is necessary is to bring all those concerned with economic processes together, to co-operate consciously for the greater good of all.

A government delegation should be involved to represent rights issues and consumer interests until and unless the latter develop stronger independent representation.

Government as an independent rights state should facilitate the development of the above arrangements, by legislative means if necessary, and the constitution needs to establish this basic threefold functional structuring and governance of social organisation.

An associative, self-organised economy involves co-ordination rather than control, responsible co-operation, and interactive development planning. This will not subvert the principles of economic freedom, or the workings of supply and demand, and competition, but enable rational and creative management of the market to enhance its working to satisfy real needs in an efficient manner.

Rights issues such as taxation, labour and income related legislation, legal conditions and responsibilities associated with different forms of ownership etc., would be decided by government, in consultation with economic bodies at various and appropriate levels.

**PROPOSAL VII - FREEDOM IN AN INDEPENDENT SPIRITUAL-CULTURAL-
EDUCATIONAL LIFE MUST BE GUARANTEED BY THE RIGHTS
STATE AND LAW**

A free spiritual life leads to diversity, and requires trust that different cultural, language and ideological groups, and different individual beliefs and approaches to life, can co-exist without conflict. History and contemporary reports tend to highlight those unfortunate situations where this is not the case, whereas the more general reality is that of the peaceful co-existence of diverse groups in heterogeneous societies.

Equality and equal treatment and protection in the rights sphere, and a general acceptance of its institutions, defuse tensions and rivalry based on conflicts of interest, and create the mutually respected means for their peaceful resolution where necessary. The impartial, universally applicable character of the law and human rights independent of, and not siding with sectional spiritual or ideological interests is necessary.

All individuals needs to enjoy equal rights which guarantee their freedom to associate and dissociate in the cultural-spiritual-educational realm. There is no need or justification for group rights which apply to some and not other groups. All groups have equal rights because the individuals who compose them have equal rights. To prevent favour and ensure justice, subsidies should be directed at needy individuals and not groupings. From the point of view of the rights-state and the law, all categories which distinguish between people on the basis of language, race, gender or religious belief must be abolished. Their freedom as individuals to associate within the cultural-spiritual-education realm on whatever basis must, however, be equally protected. Most accepted fundamental human rights guarantee just this individual freedom.

Sectional interests should not dominate, but rather be countered in the rights realm, on the basis of the equal humanity of individual human beings. The place for the expression and development of diverse and sectional interests is the free spiritual-cultural-educational realm. Where this is so, the rights life can be based on equality, and politics becomes a less contested and conflict-fraught area.

Apart from the sharing of a common legal-rights life, the reality of co-operation in economic and practical life where people meet on a human and individual basis furthers understanding, tolerance and mutual respect. In working together with and for others, a sense of common humanity and fraternity can develop between people with quite different religions, beliefs, languages, or cultures.

The primary need is, however, for the development of healthy human understanding, values and attitudes, and impulses within and by a healthy and human spiritual life and education. In our times spiritual-cultural-educational life can only be healthy and regenerate itself when free, and this requires that it be independent and self-organising, and not an appendage of the state.

PROPOSAL VIII - INDEPENDENT EDUCATION

Education, concerned with the development of individual human beings, is not the function of government, and needs to be independently organised as a free spiritual, cultural function.

A World-wide Crisis in State Education is confirmed by increasing evidence. Problems include standardisation and lack of choice, official or ideological bias, bureaucratic inefficiency and inflexibility, limited community involvement and responsibility, and demotivated teachers required to instruct according to officially approved curricula and methods.

Modern Education also suffers from serious educational defects such as an over-intellectual and academic bias; lack of relevance to life and work; over-emphasis on memorisation of information; examination rather than interest and needs driven methodology; one-dimensional evaluation; failure to educate appropriately at different stages of child development; lack of imagination; initiative, co-operation and teamwork; the production of conformists or failures rather than thinking, responsible and confident individuals.

Neither the educational nor organisational defects outlined above can be remedied while education remains under state control. Responsibility for education needs to be given to educators and communities, enabling a diversity of approaches. In the spiritual-cultural-education life there must be freedom and hence variety, with less need for co-ordination, except in negotiating educational subsidies and rights with government. Standards and accreditation can be co-ordinated by independent educational bodies.

Independent Schools world-wide have a proven record of providing quality education on a cost-efficient basis, while meeting the needs of different communities. With appropriate subsidisation this is possible for all, and is the key to accommodating different spiritual, cultural and ideological groupings, and defusing inter-group conflict. Freedom of choice with regard to types of education is a basic constitutional right in a free society.

A Bill of Rights must get this right. It is not the right to free education that is necessary, ie. financially free but unfree in every other respect. What is necessary is the right of freedom of choice with regard to education, which requires that the state subsidise children according to need, to attend independent schools of their parent's choice.

This proposal will not lead to the immediate demise of the entire system of public education, which can continue as needed, but independent from the state. Individual schools and groups of schools must, however, have the right to exempt themselves from the system, without any loss of subsidy. Parents have a real and immediate interest in education, unrelated to financial gain. Ownership can thus be neutralised by giving responsibility to appropriately constituted boards, and the strategy can be implemented incrementally, as the desire and necessary capability is developed at school and community level.

PROPOSAL IX - THE INDEPENDENT MANAGEMENT OF NATIONAL FINANCES

Government control of national financial management encourages overspending funded by inflationary expansion of the money supply and borrowing. Public debt necessitates higher tax rates, and the overall effect is economically harmful.

A small rights state government would be far cheaper and more cost-efficient in its own workings, but would still face constant pressure to subsidise independent social programmes, education etc.

Though government is obviously involved in facilitating the flow of finances to the other spheres, it cannot impartially perform this function with regard to itself. An independent institution is thus necessary.

A Properly Independent Reserve Bank is the solution, with a board comprised of representatives from government, the proposed Economic Co-ordinating Council, and independent experts representing the cultural-spiritual-educational sphere. Its constitutional mandate would be to manage the money supply, and to oversee the financing of government. It could thus effectively limit government debt, and the creation of money not backed by economic realities.

This arrangement would enable the involvement of economic and rights representatives and considerations, and utilise the insight of professional economists.

The function of auditing government accounts needs to be independent of government, and could report directly to the Reserve Bank, and Senate. Furthermore, annual financial statements of all state departments should be published in the press in essential and understandable form.

The constitution could require referenda on key issues and policies related to significant increases in government expenditure, borrowings and taxation, as further safeguards, though with the above arrangements these would be exceptional.

The separate and common responsibilities of central and regional government will need to be specified in the constitution, and provision made for overlapping tax bases, and subsidisation of poorer regions from central budgets where necessary.

PROPOSAL X - THE THREE INDEPENDENTLY ORGANISED FUNCTIONAL SPHERES NEED TO CO-OPERATE VIA PROCESSES OF NEGOTIATION AND JOINT WORKING

Issues of joint concern, and relations between the rights, economic, and cultural-spiritual-education functions need to be negotiated, with each representing its particular interests and criteria. This should not prevent, but rather lead to close co-operation where necessary, with joint working groups preparing mutually acceptable proposals and agreements.

A further principle that needs to be applied wherever bilateral negotiations occur, is the involvement of representatives of the third sphere to mediate, and facilitate constructive agreements, particularly where conflicts of interest arise. For example, where tax levels are negotiated between the rights state and Economic Co-ordinating Council, the state would want taxes to be high, while representatives of the economic realm would want the lowest possible tax rate, from an economic perspective. In such an instance, experts from the spiritual-cultural-education realm could mediate, and bring objective and independent research findings to bear on the matter. In reality there are rights, economic, and spiritual-developmental aspects to every situation. Where trilateral negotiations are appropriate, or where the above approach does not work, the independent judiciary could mediate or arbitrate, should this become necessary.

The 'Institutionalisation' of Third Party Involvement creates a dynamic which facilitates developmental social decision-making. This, together with the use of independent, professional facilitators, as is becoming increasingly common today, should ensure that practical and constructive agreements are reached, through an interactive and participative approach to social policy formation. The unilateral and dictatorial decision-making characteristic of monolithic, hierarchic systems will become a thing of the past with threefolding of social organisation.

Wherever there is already a relative independence of the three functions, negotiation is the means whereby relations and agreements are established, though in a manner less conscious and organised than is here proposed. Common examples are where state projects are contracted out, or the relationships between the state and universities, or associations of independent schools are negotiated. These confirm the practicality of threefolding, which can be developed incrementally out of the existing situation.

What is essential is to move towards the proper articulation and independent organisation of the three spheres, so that each can properly develop and fulfil its function in relation to society as a whole. This alone will enable their healthy interaction and co-operation.

PROPOSAL XI - THREEFOLD INTERNATIONAL RELATIONS

With the threefolding of internal organisation, international relations and co-operation will naturally develop on a threefold basis. Already cultural, scientific, artistic, and religious affairs are mostly conducted on an international basis, independent of politics and governments. In this regard the emerging reality and practicality of threefolding is evident.

A World Economy has developed and the old notion and still partial reality of political economies tied to nation states is being swept away, as with the emergence of the EEC. The next probable step is the formation of three massive integrated economic regions, with the attendant danger of a new 'super-nationalism'. Yet people are becoming increasingly aware that in ecological terms we share the earth as one body, and economically this is also the reality.

This is not to say that there should be no interventions by governments to protect citizen's rights, but that trade should be organised on the basis of economic and not political considerations.

Internationalism is the growing reality in economic and cultural-spiritual-education realms, and freedom in free societies naturally allows and encourages this trend. There is no necessary co-incidence between economic regions, language or cultural regions, spiritual affiliations, and historically determined national boundaries. Attempts to enforce such co-incidence are historically regressive, and will always create conflict.

Threefolding Facilitates Co-operation in economic matters on a practical basis, and the peaceful co-existence of different configurations of language, cultural, and religious groupings within and across political boundaries. Individuals must accept the laws of the rights state in which they live, but be free to chose their own cultural-spiritual-educational affiliations, and to trade and co-operate freely within a world economy.

The independent organisation of these three functional sub-systems facilitates international co-operation, moderates nationalism in its negative aspects, and makes conflict between peoples and countries much less likely. It forms the best basis for development and co-operation in Southern Africa as a region, and between Southern Africa and the rest of the world.

PROPOSAL XII - INTRODUCTION TO A THREEFOLD CONSTITUTION

A Possible Preamble

We the people of South Africa establish this constitution, as basis for the development of a society characterised by:

- * individual freedom, responsibility, and development, nurtured by free spiritual, cultural, and educational organisations
- * equality of fundamental human rights, and social justice, or minimum standards of provision with regard to substantive rights, guaranteed by a democratic legal-rights life and independent judiciary
- * material well-being and appropriate development, created by a freely co-ordinated, needs serving economy

that the great social ideals of liberty, equality, and fraternity may be progressively realised in their appropriate spheres.

Article I

1. The threefold functional nature of society shall form the basis for the independent organisation and administration of:
 - 1) spiritual-cultural-educational affairs
 - 2) legal-rights affairs
 - 3) economic affairs
2. The function of government shall be the organisation of the legal-rights realm, on a democratic basis. This precludes government from the ownership, control or management of all organisations and processes concerned with either human development, or the production of goods and provision of services.
3. The state may influence the independently organised economic and spiritual-cultural-educational realms only by means of legislation and legal processes, or by taxation, and financing or subsidisation, where necessary in order to protect or promote human rights.

CONCLUSION

The proposals sketched here are in broad outline, and of an introductory nature. There is of course the need to consider and debate detail, options, strategies, and inevitable questions, doubts and objections. This cannot occur except through real dialogue, which I would welcome with anyone who is interested.

There are new, developmental possibilities related to threefolding, which have not been dealt with here, concerning the right of use of land, capital and means of production, and income policies, taxation and economic restructuring. Much of practical value could also be said regarding the transformation of education.

The intention here, however, has been to highlight key directions essential to threefolding, with a focus on the legal-rights realm and the functions and forms of government, as these are of immediate concern in terms of drafting and negotiating a new constitution. The implementation of threefolding in practice must necessarily be flexible, incremental, and pragmatic in meeting the needs of actual people and situations. But the sound principles proposed need to find expression in, and form the basis of the new constitution.

We need a constitution that can gain wide support and acceptance, and that is fundamentally sound in laying the foundations of a new society, and inspiring in giving direction for the future, in keeping with the Spirit of the Times and the true needs of human development.

Threefolding is the positive megatrend in contemporary social development worldwide, and the necessary direction for a human future.

Hopefully enough has been said to awaken an interest in threefolding as a direction, and to make clear its relevance and potential benefits, as basis for a new South Africa. I would be happy to hear from anyone who wishes to further explore these ideas, or who recognises their value, and wishes to work with them.

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