



SABWiL

Igama lamakhosikazi malibongwe

SABWiL IMBOKODO

A Collection of Consciousness

Adv. Ayesha Tiry
SABWiL Founder

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A Collection of Consciousness

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SABWIL

South African Black Women in Law

*Igama lamakhosikazi
malibongwe! And let the name of
women be praised!*

SABWIL is an international
consciousness movement that
celebrates South Africa, Blacks,
Women & Law.

We are founded upon Dignity,
Equality & Freedom infused in the
philosophies of *Ubuntu & Zenzele*.

RESPECT is integral to our core.

*Wathint'abafazi
Wathint'imbokodo. You strike a
woman you touch a rock.*

Our voices matter.

*Vukuzenzele! Stand up and do it
for yourself!*



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SABWiL Alumni.

Igama lamakhosikazi malibongwe! And let the name of women be praised! SABWiL Imbokodo - Collection of Consciousness – is for you. Ubuntu. I am because you. Vuk'Uzenzele. Stand up and do it for yourself. Wathint'abafazi Wathint'imbokodo. You strike a woman, you touch a rock. Siyaphambile. We are moving forward.

Adv. Ayesha

1 August 2019



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FOREWARD

During May 2016, I was elected as deputy chairperson for Unisa Law Student Association. As part of our mandate as the Regional Executive Committee, we were to host a seminar for women during women's month in August.

As we were seeking guest speakers, on one of the good days while browsing through Facebook, I came across Advocate Ayesha Tiry. She had just recently created the Facebook page for SABWiL with only a few followers at that time. She was advertising the SABWiL Shadowing programme. I then invited Adv. Ayesha to be one of our guest speakers for our seminar. I was spurred to invite her as I saw a woman with passion for law and passion for uplifting law students, so serving their development.

She did not hesitate to accept the invitation and was much delighted to be a guest speaker. However, after much communication she was unavailable due to other commitments. This led to the formation of a powerful mentor and mentee relationship between Adv. Ayesha Tiry and me.

Subsequent to that invitation, Adv. Ayesha invited me and the ULSA constituency to the 'Evidence and Technology' workshop hosted by SABWiL in collaboration with KPMG on the 26 of August 2016 in Parktown, Johannesburg. The workshop was informative and distinctive in nature compared to others which I had attended. Most workshops on law deal exactly with that, 'law', whilst the SABWiL training focused on the relationship between the law and technology. *Inter alia*, I learnt that the law and technology are inseparable.

Evolution is of paramount importance to me. I am always open to development. I strive for progression in my law career. As a law student this was vital to me and as a graduate the status has not changed. Bearing this in mind I always carry the words of our former Deputy Chief Justice Dikgang Moseneke with me:

'Young people are deeply intolerant of social inequity. After all is done and dusted, each young person is his or her own liberator in the personal space but so, too, together with others, in the public and social enterprise. No young person, and indeed no generation, may outsource to others the task of achieving meaningful and inclusive freedom, least still to those who wield political or other public power'.

I was mindful that it would be beneficial to participate in the SABWiL Shadowing programme. Therefore, I applied just like any other Alumni and was afforded an opportunity to shadow not one but two advocates during October 2016. I was assigned to Advocate Pumeza Jara from Thulamela chambers. However, because of the nature of the trial that she was working on with Advocate Thandi Norman SC, I found myself shadowing them both. I thought to myself, what an honour!

What an opportunity! One of the very few women of colour conferred silk status, and here I am, shadowing her. I was inspired.

My first encounter with the law was back in 2013 when I attended a few magistrates' courts in the Vaal as part of my training for my paralegal course. This invoked a burning desire for litigation at that time.

Two months later after having completed the SABWiL Shadowing, I applied to participate in the inaugural SABWiL Human Rights Court (SHRC). I was initially positioned as a junior counsel. Due to some unforeseen circumstances my senior was unable to journey from Eastern Cape to Johannesburg to attend the proceedings. Adv. Tiry and I had to seek a junior counsel a few days before the proceedings which we managed to find. Unfortunately, on the morning of the proceedings my junior also could no longer participate.

I felt discouraged, distressed and lacked the ability to continue with the proceedings. At the same time, I was also mindful of the days spent working on the heads of argument, the research and the preparations. I knew I had to continue. I then called Adv. Tiry. She made me realise that people's absence cannot stop me in achieving my end goal. We had a lengthy discussion about the Almighty, striving, endurance and smart work. This led me to an informed decision where I realised I had to appear in front of the SHRC Justices as a counsel. The proceedings had to take place regardless of what was happening. As they say, 'The show must go on!' Fortunately, as I arrived at the venue, I found another junior counsel with the gracious aid of Adv. Ori Ben-zeev. Guided by Adv. Ben-zeev, I briefed Alumni Nassir Ali on the argument a few minutes prior to the commencement of the proceedings. He stepped in graciously as my junior even though he initially attended the SHRC as a guest observer. That day, I argued as lead counsel. Advocate Ori Ben-zeev, a director of SABWiL NPC, counselled me before the hearing. This ultimately lifted my spirits and restored my confidence. From this, I learnt a valuable lesson. The life of a counsel is unpredictable. We plan and prepare and then something else occurs with urgency.

The proceedings finally took place and my junior and I lost to our opponents, the Respondents. For courage and determination, I still came first. This I was awarded by Adv. Tiry who expressly gave me full colours. Despite the loss to the Respondents, I will never take the experience for granted. This was another steppingstone as a law student and an aspiring young professional.

On the 8 of October 2018 I was elected by the SABWiL Alumni constituency to be the first President of SABWiL Alumni. This was then followed by another invitation

from Adv. Tiry. In February 2019, she made a request that I write a foreword for her first book SABWiL Imbokodo ~ a Collection of Consciousness. After receiving the phone call, I could not contain my happiness. I was ecstatic. I jumped, screamed and was overwhelmed with emotions. Seeing that you are reading this foreword, I honoured the invitation.

This collection tells a detailed story of our Ethos, the founding values, and how SABWiL was founded. Adv. Tiry challenges our thinking and takes our minds on a journey of consciousness. She critically evaluates the founding values of the constitution making us realise that the 'respected human' should be used as a tool to purposively interpret our Constitution as envisaged by the Constitutional Court. Furthermore, Adv. Ayesha uses the 'respected human' to unlock our minds by visualising how it correlates with *Ubuntu*. We all know that *Ubuntu* was mentioned in our interim Constitution. It is a philosophy used as a backdrop for our current Constitution, Act 108 of 1996. However, *Ubuntu* is not expressly mentioned therein. Yet, we still read judgments which incorporate *Ubuntu* in it. Why? Is it not clear that we need an express mention of this African philosophy in our Constitution of South Africa? Adv. Tiry rightfully answers this:

'We call for the constitution to expressly use the concept of Ubuntu in the definition of section 1 founding values. Ubuntu is so integral to our identity and where we are headed as a nation. It is perchance why we enjoyed the negotiated transition of power and have the Constitution, 1996'.

Often when one refers to *Zenzele*, it is associated with the individualistic self. Be it as it may, in this collection our minds are broadened as we deeply comprehend that it is through *Zenzele* and *Ubuntu* that South Africa as a collective was able to overcome the apartheid state which tried to destroy our dignity, equality and freedoms. No one could have done it alone, these negotiations, the forgiveness, the formation of the constitution, *inter alia*.

This required the country to stand united and work together, including the oppressor and the oppressed, to move to a transitional new era of South Africa. Ultimately, without doing it ourselves, our nation would not have seen the constitutional democracy that we are living in 2019.

This is remarkable as we learn that 'African philosophy is not limited to Africa alone as parts thereof are universal'. This is further motivated by the speech of President J.F. Kennedy: *'Don't ask what your country can do for you but what you can do, for your country'*. *Zenzele* is universal.

SABWiL Imbokodo – A Collection of Consciousness

Throughout the collection we are referred to Steve Biko as a luminary for our consciousness. We cannot unravel consciousness and not mention the 'vanguard of Black consciousness'. Luminary Steve Biko opened our eyes to Black consciousness. In reading this collection we are motivated to read more about our luminary, Steve Biko. Upon reading with comprehension, we are further motivated to instil his ideology into our lives and be conscious of our surroundings.

It is with no doubt that our vanguard of Black consciousness can also be referred to as *Zenzele*. He was willing to die for the liberation. Nothing and no-one would have persuaded him to adapt to the oppressive times and harmful surroundings to one's inner soul. His mission was quite clear, open the mind to the subjugation of your oppressor. Be conscious. Without fear or favour, Steve Biko did it, not only for himself but for the entire Black generation.

It is no surprise that SABWiL is built on consciousness = opportunity = (dignity +equality +freedoms). This is the SABWiL equation. I am honoured to write this foreword, not because I am the Inaugural President of SABWiL Alumni. However, I write this foreword as an LLB graduate, alumni and an aspiring young professional. One may ask what is the relevance of all this? My happiness is provoked by knowing that every alumni, every aspirant legal practitioner and potential aspirant legal practitioners will be moved by this Collection.

They will greatly benefit and thus be enriched from the knowledge shared upon learning the SABWiL equation. They will appreciate that every opportunity counts in their development. While being conscious of every opportunity, they must scrutinise and be selective of the type of opportunity which will immensely contribute to their learning journey. Whilst they appreciate this, they will then come to a realisation that SABWiL is built on dignity, equality and freedoms. This is done purely to reach the 'respected human' as envisaged by this collection. Everyone has principles upon which their live are built. Some may not know their own principles or rather are blinded. However, their actions depict to the society at large their principles. Adv. Tiry closes this collection by breaking down what her own principles are and how they have moulded and shaped her into being an advocate, founder of SABWiL and lastly an authoress. In one of her principles under respect she writes as follows: *'Respect is a core essential in my relationships, be it professional or personal'*.

Having known Adv. Tiry for all these three years I can firmly attest that she holds a high value of respect. Whether she deals with alumni, an advocate or an attorney, young or old, her demeanour never changes. It is with this very respect that I enjoy working with her. I still remember the few weeks into the presidency. Having no clue whatsoever I always approached her for guidance and to my surprise she was more than willing to assist. Not in a single day have I ever felt like an amateur who

does not know her work. She always applauds good work and if the work is not sufficiently done, she reverts with constructive criticism and comments which have guided and taught me more.

It is my hope that those who read this Collection will be moved as I am. They will enjoy this collection not only from a perspective of a law scholar, but also a 'respected human' whose soul is touched and is willing to make a difference in our country.

I leave you with the words of Adv. Tiry that reinforces an envisaged society which we can all live in: *'Mediation applied authentically is a passage to the 'respected human'. Ultimately it is about living in a society that provides the environment wherein the 'respected human' can actualise. Is this not the heart of the Constitution of the Republic of South Africa, Act 108 of 1996?'*
Igama Lamakhosikazi Malibongwe. Womandla. Vuk'uzenzele.

Madillo Mofokeng

SABWiL Alumni First President

April 2019

PREFACE

The Constitution of South Africa, Act 108 of 1996, is transformative. It breathes. We interpret her text purposively. I believe that this must be taken a step further. As we interpret the Constitution of our South Africa, we must strive to achieve that interpretation that best clothes the 'respected human'. It is with this loving bind that this Collection is written.

The content herein is essentially a Collection of Consciousness that has been shared with our youth in law, some of whom are now SABWiL Alumni, on various public platforms. I am honoured to have addressed our aspirant lawyers at their invitation. Without the wishes of our aspirant lawyers to engage with my consciousness, this Collection would not be. Herein, I scribble about the making of my 'ROCK'. 'Respect', 'Opportunity Costs', 'Consultation' and 'Knowledge' is the 'ROCK' equating to my *Imbokodo*.

We also do a bit of mathematics. The SABWiL Equation is formulated as:
 $\text{Consciousness} = \text{Opportunities} = (\text{Dignity} + \text{Equality} + \text{Freedoms})$. If spurred, do use this Collection to establish an express mention of '*Ubuntu*' in our Constitution. Judgments alone cannot be burdened to capture our spirit. *Ubuntu* requires express validation in the Constitution itself. Strive to have African philosophies ingrained in our judgments inclusive of that of *Zenzele*. Without *Zenzele*, there would be no dignity, equality and freedoms in South Africa. *Vuk'uzenzele*.

I thank SABWiL Alumni and Luminaries for honouring our movement. I am in awe of your magnificence. Without you, SABWiL has no breath. Indeed, I founded our SABWiL Foundation on 14 August 2016. Still, you are the light and heart of South African Black Women in Law. Keep shining, Passionate Intelligentsia. Keep leading with diamond light. SABWiL Alumni are birthed from African philosophies of *Ubuntu* and *Zenzele*, as applied by our SABWiL Luminaries.

Shape your *Imbokodo*. *Wathint' abafazi wathint' imbokodo*. Know that the force of the strikes against you forges the sparkle. Be ready to dance in diamond light. Stand for dignity, equality and freedoms. *Ubuntu*. I am because you are. *Vuk'uzenzele*. Stand up and do it for you. *Wathint' abafazi wathint' imbokodo*. You strike a woman you touch a rock. *Igama lamakhosikazi malibongwe!* And let the name of women be praised!

Adv. Ayesha

SABWiL Founder

February 2019

CONSCIOUSNESS I

RESPECTED HUMAN



Respected Human

Consciousness I

Respected Human

In this Chapter I set out the founding values of South Africa. I measure SABWiL founding values against those in the Constitution of the Republic. Then, I detail what is common and different, proffering reasons.

Currently, constitutional texts are interpreted purposively. Texts do not operate in a vacuum. It exists for us. I propose that the purposive interpretation of the constitution takes into account the 'respected human'. For ready comprehension, the 'respected human' test it is similar and certainly not equal to a test in the law of delict coined as a 'reasonable person' or historically 'reasonable man' test. We suggest that constitutional texts be interrogated purposively so as to favour the interpretation that lauds our vision of the 'respected human'.

Igama lamakhosikazi malibongwe.

Every home has a set of rules. What are the values in your home? What is the ethos of your business? These parameters are at times birthed from deeper principles innate to all that the rule intends to achieve. Just as families have values, be it Christian, Muslim, Greek, Italian and so forth, so too, does South Africa. The founding values of South Africa, her principles or standards of behaviour, are emblazoned in the Constitution of the Republic, section 1 of Act 108 of 1994.

Tata Madiba, as our first democratic president Nelson Rolihlahla Mandela is warmly titled, signed the Constitution of South Africa into being on 10 December 1996 in Sharpeville, Soweto. From this point on, we, as a country know what is important. Our South African values are finally constitutionalised.

South Africa is founded upon dignity, the achievement of equality and the advancement of human rights and freedoms; non-racialism and non-sexism; the supremacy of the Constitution and the rule of law; and universal adult suffrage, a national common voters' role, regular elections and a multi-party system of democratic government to ensure accountability, responsiveness and openness. These are our values as a country, the DNA and heart of South Africa, naked for us to clothe in laws that reflect her essence.

Our family homes and business environments may have their own set of values or unique standards of behaviour. As a consciousness movement, SABWiL builds from

the vanguard of Black Consciousness, Steven Biko. He is a luminary still and a hero put to rest so young before our nation reaped more from his wisdom. Without consciousness, the ills that cut into us as a society remain unchecked in self and so society. Consciousness is our path to actualisation as individuals and as a country. More of this is discussed in the following chapters.

SABWiL lauds the founding values of the Constitution of South Africa. The values of dignity, equality and advancement of human rights and freedoms are beats in the heart of SABWiL. This is not to say other values are not important. As a consciousness movement, SABWiL impacts society actualising dignity, equality and freedoms. These values speak to non-racism and non-sexism. As the human mind does not see a negative, we refrain from negations and focus more on the positive frame of the values. Using the words 'non-racism' and 'non-sexism' is not our ideal choice of words to capture the vision intended. Consequently, the phrases dignity, equality and freedoms are our heartbeats.

The same way we would highlight peace as 'peace' and not 'non-violence' so, too, we choose to conscientise the values of dignity, equality and freedoms by focusing thereon as opposed to using the negative terminology of 'non' in the 'non-racism' and 'non-sexism'.

This terminology as the SABWiL Founder I reject on two grounds. The first is from my understanding of the mind. The mind does not recognise a negative. If we say 'I am not a sexist'. The mind internalises 'I am a sexist.' The second stems from our history as oppressed people. Many of us revolt against being identified as 'non-White'. We are Black. To identify us from the perspective of the White is to subtract from our identity and demeans us. This perspective of identity is degrading and unacceptable. For this reason, we are cautious about the terminology we employ to achieve our objective.

Consequently, I reject terms such as 'non-racism' and 'non-sexism' in our consciousness dialogue and much rather laud terms that stem from positive frames such as dignity, equality and freedoms. Racial respect and sexual respect or phrases positively framing this concept are my preferred coinage to capture what is intended. This draws us closer to the 'respected human' and the vision for our nation.

To achieve this 'non-racism' and 'non-sexism' we must acknowledge the values of dignity, the achievement of equality and advancement of rights and freedoms. In our collective mind, 'non-racism' and 'non-sexism' is a detailed way of negatively reinforcing the values of dignity, equality and freedoms. I much rather prefer

Respected Human

terms that capture this heart as a positive frame of reference such as racial and gender respect.

To define these critical components from a negative is to give importance to the negative and we regress. We focus on the hurts and harms to determine what is acceptable when we should focus on the path towards the ideal, the 'respected human'. This of course is not denialism. We require acknowledgment of the harms. We do not fashion ourselves based thereon. We are more than the wrongs done unto us. We are the light that leads the way, the fire that cannot be doused.

Much like the law of delict often refers to the 'reasonable man', we propose that interpretations of the Constitution of South Africa, 1996, should incorporate the 'respected human'. To interpret constitutional texts we then gaze in the horizon in order to determine the parameters of the conduct in issue. We look at the free human and this respected human's constitution as contemplated in the Bill of Rights in order to be a country that births these liberated individuals. The purposive interpretation currently lauded is but the start.

The same way we ask what a reasonable person would do in the law of delict, so we should ask whether the standards meet that of the 'respected human' in constitutional interpretation having interpreted purposively. This purposive interpretation is not novel. It merely takes us to the end of the rainbow hailing the gold as the 'respected human'. This is very much in line with the permeable nature of dignity as a value and an entrenched human right.

Our Constitutional Court affirms that we purposively interpret the Constitution. *Mansingh v General Council of the Bar and others* 2014 (2) SA 26 (CC) beacons that

'... It is necessary to establish the correct interpretive approach.

The Constitution is the supreme law of the Republic.' and that

'This court has given approval to an interpretive approach that, while paying due regard to the language and the context, is generous and purposive and gives expression to the underlying values of the Constitution.

Is this then not the foundation for the 'respected human'? See also *Ferreira v Levin NO and Others; Vryenhoek and Others v Powell NO and Others* 1996 (1) SA 984 (CC) (1996 (1) BCLR 1; [1995] ZACC 13) in para 46; *Minister of Home Affairs (Bermuda) v Fisher* [1980] AC 319 (PC) ([1979] 3 All ER 21); [1979] 2 WLR 889 at 25h (All ER), cited in *S v Zuma and Others* 1995 (2) SA 642 (CC) (1995 (1) SACR 568; 1995 (4) BCLR 401; [1995] ZACC 1) in para 14. See also *Viking Pony Africa Pumps (Pty) Ltd t/a Tricom Africa v Hidro-Tech Systems (Pty) Ltd and Another* 2011 (1) SA 327 (CC) (2011 (2) BCLR 207; [2010] ZACC 21) in para 32.

Our Constitution, Act 108 of 1996, is transformative. SABWiL raises consciousness from the ideal of racial and gender respect as opposed to non-sexism and non-racism. Respect is integral to our core. Consciousness is about interrogating that which is before us subliminally. This is how we propose to interrogate the founding values of our Constitution and hold on to that which speeds us forward to actualising the 'respected human' for all in our land.

We laud the rule of law in our constitutional democracy. We recognise the rule of law as vital to the maintenance of law and order in a society. We remember and remain conscious, too, of how the rule of law in the apartheid regime was used to oppress the humanity of Blacks. We recognise the power of the rule of law and how laws that do not actualise the 'respected human' can destroy dignity, equality and freedoms. Inhumane laws negate the essence of the 'respected human'.

Dignity, equality and freedoms are the vanguards which establish the parameters for the rule of law. We respect the rule of law and believe laws must pass constitutional muster before the might of the law comes to bear upon any of us. The values of dignity, equality and freedoms are central points to actualising a better life for all. The rule of law is a critical component in our constitutional democracy.

Laws must be constantly monitored to ensure that our dignity, equality and freedoms are honoured so that the 'respected human' flourishes, thus, birthing the South Africa our Constitution envisages. We are not shy to interrogate unjust laws and reject their rule, after due process and within the parameters of the law, if these laws negate the dignity, equality and freedoms entrenched as human rights by our supreme law, the Constitution of South Africa. This monitoring will be enriched if we have in mind the 'respected human'.

We hail the supremacy of the Constitution. SABWiL is founded upon dignity, equality and freedoms infused in the philosophies of *Ubuntu* and *Zenzele*. We assess and give life to our dignity, our equality and our freedoms from the viewpoints of *Ubuntu* and *Zenzele*. The South African Constitution is a transformative one. It is one which is purpose driven and when interpreting her provisions we look to where we are headed as a nation and how best the interpretation fits the vision of South Africa.

The Constitution itself allows for amendments to her text under specified conditions. This is wise as the drafters acknowledge that nations evolve and perchance they did not provide sufficiently for every situation. These visionaries recognise flexibility in our constitutional supremacy and the will of the people as

Respected Human

long as our dignity, equality and freedoms are acknowledged and we are within the parameters of the Constitution in any changes effected.

The Constitution is our country's governing Bible, Torah, Quran or word of the Ancestors and Elders so to speak and so forth. The Justices of the Constitutional Court are the prophets who interpret and guide us to her meanings definitively. Eleven of them lead in actualising the vision of South Africa through interpretations we find in binding judgments. All justices in our high courts have the duty to interpret laws through the prism of the bill of rights and constitution. Thus, there are many erudite jurists who safeguard the Constitution to ensure the vision of South Africa is actualised. Parliament by making laws and the Executive in policy and execution, too, have fundamental roles in actualising our Constitution.

Consequently, we hail the supremacy of the Constitution. In our SABWiL founding values, we hold rather tightly onto dignity, equality and freedoms. These are our beacons. Our movement is a consciousness one. To keep our focus on the substance we believe the form shapes readily. This is not a critique to the founding values of the Constitution of the Republic. Rather, we distinguish our movement and explain the parts of founding values we moves us.

Universal adult suffrage, a national common voter's role, regular elections and a multi-party system of democratic government to ensure accountability, responsiveness and openness are established as founding values of South Africa's Constitution in section 1. SABWiL lauds this. We strive to be accountable, responsive and open in order to actualise dignity, equality and freedoms. No doubt the 'respected human' must be afforded the benefits attached to these values.

SABWiL founding values of dignity, equality and freedoms are not in a vacuum. These values are infused in the philosophies of *Ubuntu* and *Zenzele*. This is discussed in the following chapters.

CONSCIOUSNESS II

UBUNTU



Ubuntu

Consciousness II

Ubuntu

This Chapter and the next capture the essence of the African philosophies of *Ubuntu* and *Zenzele*. The importance of these philosophies in the formation of the Constitution, 1996, is debated. I call for the express inclusion of *Ubuntu* and *Zenzele* into our Constitutional scripture thereby ensuring *Ubuntu* and *Zenzele* as values are recognised in our laws irrefutably.

I am because you are.

African philosophy is rich. Our heritage bespeaks of humanity. Goodness and kindness are intrinsic to being African, South African. We are a nation that is still healing from the ravages of apartheid. Nevertheless, our light beams away the woes.

Vietnam experienced the devastation of 'Agent Orange', a poisonous herbicide that the United States military released during the Vietnam War from 1961 to 1971. In addition to its destruction of the environment this herbicidal warfare caused health complications resulting in birth deformities many years later. Children today are, still, born suffering because of the herbicidal warfare.

Apartheid, too, has dire consequences. We acknowledge the impact and work towards healing. We hope that the 'born free' generation, those birthed in the constitutional dispensation, are richer for our struggles. Yet, the house they are birthed in has the markings, smell and taste of war. Our youth are not as 'born free' as we hoped. The past left shackles that we dismantle day by day so that we flourish as the 'respected human' in the constitutional dispensation. Sometimes we hear the words of our luminary, Steve Biko, from the distant past jeeringly '*Black man you are on your own.*'

Ubuntu. I am because you are. *Ubuntu* is a philosophy universal to Africa. It is bigger than South African. It is African. Ma'Makhubu, Mbuyisa's mother, when she says:

'Mbuyisa is or was my son but he is not a hero. In my culture, picking up Hector is not an act of heroism. It was his job as a brother. If he left him on the ground and somebody saw him jumping over Hector, he would never be able to live here.'

surely captures the essence of *Ubuntu*? I find no better expression of *Ubuntu*. This is what it means to be African. We have obligations towards each other and are bonded by the golden threads of *Ubuntu*. I am because you are. I see myself through you. I exist because of you. There are various interpretations of this majestic philosophy. The unbreakable thread is that we are linked. This is very different to certain other cultures which are much individualised.

Ubuntu captures the modern psychological concept of inter-dependence. We are individuals who are connected to our brothers and sisters. *Ubuntu* leads to the vision of the 'respected human'. This philosophy is not expressly mentioned in our current Constitution, 1996. *Ubuntu* was mentioned in the interim Constitution. Our constitutional jurisprudence ensures that *Ubuntu* lives in our laws.

SABWiL founding values of dignity, equality and freedoms are infused in *Ubuntu*. Respect is integral to our core. We do not separate these values as stand-alone concepts. Dignity, equality, freedoms as values and the 'respected human' are defined from the perspectives of *Ubuntu* and *Zenzele*.

I commend the Constitutional Court for keeping alive the philosophy of *Ubuntu* through her judgments so that still, *Ubuntu* shapes our tomorrow from the might of the law. I call for the Constitution of South Africa, Act 108 of 1996, to expressly use the concept of *Ubuntu* in the definition of section 1 founding values. *Ubuntu* is integral to our identity today as it was yesterday and to where we are headed as a nation. It contributed to the negotiated transition of power and the making of the Constitution, 1996.

The country that births the 'respected person' must be clear from a first reading of the text of the Constitution of the Republic about our African essence. Why was *Ubuntu* removed from the constitutional text and then lauded through constitutional court judgments? There can be no valid objection to the inclusion of *Ubuntu* as a founding value in our South African Constitution. Let's be express about our identity and heritage as a nation. Let African pride shine.

Our constitutional judgments acknowledge our heritage yet that cannot be enough. The Constitution, too, should be direct about African philosophy and its place in our value system as a nation. *Ubuntu* is a value system and very much why we transitioned peacefully into a democratic nation based on human dignity, the achievement of equality and the advancement of human rights and freedoms. Why be shy about our heritage? Why do we find our identity only through the judiciary and not the collective will of our people? Why are Parliament and the

Ubuntu

Executive not as bold as the Judiciary in embracing *Ubuntu*? Why was *Ubuntu* removed from our final Constitutional, Act 108 of 1996, when it was part of our interim Constitution and is still part of our laws?

CONSCIOUSNESS III

ZENZELE



Consciousness III

Zenzele

Vuk'uzenzele. Stand up and do it for you.

I love and celebrate the African philosophy of *Zenzele*. *Zenzele* and *Ubuntu* are characteristics that exemplify the 'respected human'. *Zenzele* has its genesis in Soweto, the very place where our Constitution was signed into being by Tata Madiba on 10 December 1996.

Zenzele is absent from the text of the Constitution, 1996, and as yet not expressly captured in our constitutional court judgments. Is there space in our judgments for this philosophy? Does the supreme law of our land affirm *Zenzele*?

Zenzele breathes in our laws through the validation of *Ubuntu*. I am because you are. Stand up and do it for you, the collective self, that is. *Zenzele* is fuelled by the founding value of 'freedoms' and so has irrefutable light in our laws and land. Section 1 of the Constitution hails that South Africa is founded on dignity, equality and 'the advancement of human rights and freedoms'.

It is a township practise to hail '*Vuk'uzenzele*' which translates into '*Stand up and do it for you*.' This is how many survived through apartheid. *Zenzele* is endemic to Steve Biko's thinking of self-determination when he says 'Black man you are on your own.' *Zenzele* extends further to any power such that we, as a nation, on an individual level then a family level then as a society and as a state, have duties to take control of problems and find solutions from the ground up.

Zenzele is very much African. This is how we flourished, despite systemic oppression, and overthrew systemic injustice established as apartheid laws. We did it ourselves. We did not cap in hand sit with begging bowls waiting for hand-outs. We did not wait to be rescued. We are our own heroes and heroines. We fought for our freedom. We practiced African culture, *Zenzele*.

We are still fighting for the actualisation of our victory. *Zenzele* cannot be abandoned. *Vuk'uzenzele*. Looking only to others to come to the rescue implants a victim mentality. There are times when we all need help to move beyond challenges but this help cannot be indefinite. Using the well-renowned adage, we teach how to fish and cannot simply day after day be handed the fish. This is

disempowering. Education and using the lessons lead to empowerment individually and as a nation.

Can we create structures that hold together a society where the 'respected human' flourishes and reaches actualisation? How do we do this? Biko had views. He believed as a group we would grow strong and heal amongst ourselves first as the oppressor's agenda and ours are diametrically opposed. Can we behave with one another as if we all share the same agenda? Do we share a common vision of a nation where the 'respected human' flourishes? Do we function in structures where we all look around and affirm our own dignity? Can the 'respected human' flourish? Does *Ubuntu* reign? We must not look at each other as a lesser person owing to the skin colour, gender, age, sexual orientation and so many other discriminatory practices. There will always be strife.

Women, regardless of race, in environments often bullied into 'othering'. If women are in a group with men they at times oppress their womanhood to be part of the collective and hold tightly onto what is common, perchance their race. The race is the common factor negating the variance. This is an example of how we 'other'. Parts of us dominate in this equation. Parts of us remain silent. We consciously need to be our fullest self.

Authenticity is critical for transformation. Yes, at times we yield but only after being conscious of our authentic voice and choose freely to focus on the commonalities and subdue our difference. Choice is critical. Where there is no choice, there is oppression. However we disguise or deceive ourselves and others, we are dominated if we cannot be authentic. The fullest expression of self is readily possible in a group where there is a common vision for the 'respected human'. Like luminary Biko hails: *'Being Black is not a question of pigmentation, it is a question of mind.'*

We cannot realistically flourish separately. No one is an island. No person functions alone. Different cultures must meet, be it harmoniously, in war or the variations between. Nations are not alone. We must integrate to be whole. Interdependence is a path. This stems from core values of dignity, equality and freedoms with a view to a home for the 'respected human'. *Ubuntu* and *Zenzele* are our heart beats. Wholeness can be achieved first by being in an environment that fosters our evolution into the actualised 'respected human'.

Once we flourish in self we are readily able to integrate and function interdependently with those with opposing interests. The dialogue between opposing groups are healthy and productive. There is a win-win on an individual

and societal level. Respected humans sparkle in light that warms us all. When everyone is healthy and the actualised 'respected human' then our integration takes our country towards Utopia. This integration of actualised 'respected humans' can occur on a micro-level when two people of different races or gender and so forth break bread together. It must happen this way for actualised 'respected humans' as these persons are hungry for more growth and welcome interdependence and the exchange of different vantage points. Should the actualised 'respected human' not engage in contrary views, she stands still and so regresses. To evolve, we either move forward or backward. The stillness is a pause.

Vuk'uzenzele. Stand up and do it for you. What does this mean? Do it for yourself and yet for us all? Is this not then diametrically opposed? Let us interrogate this. 'Yourself' is not individualistic but the collective self. In African culture there is no 'I'. We do not sit on the ground cap in hand with a beggar's bowl. We stand up and find a way to actualise our highest self. We, ourselves, create the environment that allows us to self-actualise and flourish as a nation and country.

Delmas trialist and stalwart, Advocate Gcina Malindi SC, a leading Senior Counsel, reminds us in an interview available on our SABWiL YouTube Channel that African philosophy is not limited to Africa alone. Parts thereof are universal. He highlights the often quoted speech of President J.F. Kennedy or words to that effect: *'Don't ask what your country can do for you but what you can do for your country.'* *Zenzele* is universal.

The apartheid state was an oppressive and inhuman. It destroyed human beings based on skin colour. The father of Black consciousness, luminary Steve Biko, explains *'Being Black is not a question of pigmentation but a question of mind.'* There is wisdom in this statement. It is this variance of 'Black' that I adopt as the SABWiL Founder in our consciousness movement. Thinking evolves and so, too, does our Blackness.

A lot can be written about what 'Black' means. If we are not basing the meaning on skin colour, then what? The debate is open. I have views. What are yours? Blackness stems from a mental attitude as envisaged by Biko. There is such a love for our authenticity. No shame resides in identity. We navigate as the 'respected human', authentically. This is my meaning. We revel in Blackness, our truth. We don't live a lie and so become the lie.

We may use masks in necessary contexts but we know this is a mask. We are not ashamed of the human being, masked. We don masks when there is no trust or

Zenzele

perchance when we are in danger. Be alive that when the mask is on, this is not our home and our real space to shine. Masks may be necessary to navigate society unencumbered. True power and liberation is when are authentic. Find these spaces that permit this until one day you reject those spaces that shut down your light. Be in the room that enables the diamond light. This is home.

The apartheid state infringed upon our dignity, equality and freedoms. The state did not enable an environment wherein the 'respected human' flourished. We prevailed. How did we do this? Our victory lies in the meritorious philosophies of *Ubuntu* and *Zenzele*. It is a victory that stems from being African. It is the Blackness envisaged by Steve Biko. Our authenticity and validation in self spurred the victories.

Our forgiveness of the oppressor and the formation of the Constitution stems from the application of these philosophies, no matter the strife and pain. *Ubuntu*. We sat at the table in rainbow colours, interdependent as we claimed our rights and compromised. Remarkably, these African philosophies that birthed the very Constitution we laud are not mentioned therein. Constitutional court judgments recognise *Ubuntu*.

Does *Zenzele* find a place in the way we shape our constitutional democracy? *Zenzele* may be at work in the founding values in section 1 (a) when our values include the 'advancement of freedom'. Possibly, section 1 (d)'s value of 'universal adult suffrage' can be akin to '*Stand up and do it for yourself*.' when we play a critical role in our future by voting. Our right to vote is perhaps the closest recognised form of *Zenzele* in the founding values. As the SABWiL Founder, I call for more clarity and expression in constitutional texts. As a country, let us be bold like Biko. Let us use the words *Zenzele* and *Ubuntu* in the Constitution that governs us.

Why is *Zenzele* not a founding value of South Africa? Is there any judgment that captures this philosophy as part of our heritage? Do judgments recognise that without *Zenzele* there is no Constitution and 'respected human'? Without *Zenzele* we would still be an oppressed nation. We would not have been able to see through the lies and break free from the forced masks. We must not lose our heritage in the interpretation of our laws and the best safeguard is expressly to include *Zenzele* in the founding values of the country in the text of the Constitution of South Africa. *Zenzele* is the affirmation our dignity, equality and freedoms.

As we actualise African philosophy, we enable our highest Self to shine. We do not lie disempowered in a web of entitlements. *Vuk'uzenzele*. This of course must not be construed as taking the law into our own hands. *Zenzele* is not about law

breaking. It is about empowerment and nation-building. The English interpretation '*Stand up and do it for you.*' does not literally capture the depth of the *Zenzele* philosophy. It is not about doing it for 'you' individually. I impress that there is no 'I' in African culture. It is about doing it for all of us as a people. The 'I' is collective. '*Stand up and do it for you as a people.*' better captures the essence of *Zenzele* and is very much in line with Biko's vision.

Words of a leading Black senior counsel to his daughters come to mind, '*You must fight for what you want.*' *Vuk'uzenzele*. For more about this rich philosophy read '*Footprints in Stone – Women in the Zenzele Movement in South Africa*' by the late Mango Tshabangu. I was privileged to listen to Mango share his wisdom before his passing as he addressed us at Chambers one Friday afternoon. It is here that I was conscientised. I learnt about *Zenzele* from Mango. Fortunately, he has left us with his book.

CONSCIOUSNESS IV

IMBOKODO



Imbokodo

Consciousness IV

Imbokodo

Wathint' abafazi wathint' imbokodo.

During the march to the Union Buildings in 1956 on 9 August, around 20'000 women of all races and cultures, mothers of our nation, sang with passionate intelligence in melody minus violence. Our foremothers sang this phrase in peaceful protest against the pass laws and Group Areas Act. *Wathint' abafazi wathint' imbokodo* since has come to represent women's courage and strength. Thirty years on, in 1986, the pass laws were repealed.

You strike a woman you touch a rock. *Imbokodo*. Rock. We are shaping our rock. The facets of the diamond within are being chiselled. How will our light sparkle? Who else will benefit from our shine? How far will our sparkles light the way? How many do we warm with our fire? A diamond is forged by pressure. It is the toughest stone. Rare. The sparkles delight. Sharpened, it cuts. South Africa is rich in diamonds. The very best diamonds are forged in our land. Challenges may be the path to a noble light. Are obstacles not opportunities? Persist. Persevere. *Imbokodo*. *Wathint' abafazi wathint' imbokodo*. You strike a woman you touch a rock.

My journeys to *Imbokodo*, rock and diamond, I detail in the following passages. Everyone has their own *Imbokodo*, their own rock and their own diamond. I do not impose mine upon you. I cannot. We sparkle differently. Our authenticity is what defines us. Living our truth is how we honour life and each breath.

My 'ROCK' stands for the principles that have defined me. My *Imbokodo* fashioned Adv. Ayesha, founder of South African Black Women in Law, SABWiL. My *Imbokodo* = ROCK = (Respect + Opportunity Costs + Consultation + Knowledge).

R = RESPECT

O = OPPORTUNITY COSTS

C = CONSULTATION

K = KNOWLEDGE

R= RESPECT

ROCK = (RESPECT + Opportunity Costs + Consultation + Knowledge)

Respect is not love. Love is an emotion. We feel love. Today, we may be angry and feel hatred towards someone we loved passionately yesterday. Then, after a few

apologies and explanations, perchance the love is rekindled. Simpler still is the fluctuation of emotions. Feelings have various ranges and types. Joy. Anger. Love. Hatred. Indifference. The degrees may differ. Intense. A Little. A lot. A bit.

Love is important. It is why we overlook and forgive harms. Love stretches our hearts to ask the whys so we can move beyond the pain and hurt in order to forgive and love again and again and again. We may even beautify the harmful conduct and justify it as being good for us if this harm is at the hand of a beloved.

Love is at times why it tough to leave an abusive relationship. The first slap is followed by roses. Before that, the tiny digs and erosion of self-esteem until left unchecked, we believe we are unworthy of humanity and worthy only of the beatings in words and kind. The abused feels love for the abuser. The abuser loves the abused. This varies. The love at times is hatred or indifference. The range and intensity of emotions is in a constant state of flux.

Feelings are important. We must acknowledge and respect feelings. I differentiate between love and respect. Respect is a core essential in my relationships, be it professional or personal. If respect is lacking then love surely will be a harmful kind in my world view. If respect is absent, then the love is not a love I invite and welcome.

These feelings are now in need of scrutiny. Is this love worth the disrespect? Is this love worth the abuse? A resounding, 'no', I plead. What about forgiveness? This is different. We can forgive and feel mercy to those that perpetrate harms upon us. It does not mean we must allow these harms over and over again. Without a doubt, we need help to leave abusive relationships. We need not be ashamed. Still, many abused persons feel deep shame believing somehow the cause for the beatings and abuse are of their own making. That one person with whom to talk who listens quietly is a haven. Help and a way out start with kindness. Slowly and surely the harmed will find a way to cast off the abuser permanently. It is a challenge.

Now why these scribbles about abuse when the principle is respect in the 'R' for 'Rock'? Why mention abuse when respect is the focus? Is abuse the antithesis of respect? Where abuse resides, respect vacates. The relationship that is abusive is absent of respect. There may or may not be love. We cannot speak for the feelings of others.

Emotion has its place and must be respected accordingly. We acknowledge and strive to understand its power. Emotion moves us. The nature thereof determines

Imbokodo

the velocity of many a moment. Respect is my determining compass for the long haul ahead. The psychology of abuse is without a doubt very remarkable and food for much thought. We must aspire not to judge the abused and instead aim to proffer help and support. Compassion must dominate. Even the abuser needs help of the grandest professional kind.

By being conscious that love and respect differ and by choosing respect as a higher value than love, the path ahead gains clarity. The parameters of journeys in business and pleasure are defined. We may be tough and capable of withstanding abusive conduct and willing to endure for the sake of love. Or we choose to walk from toxicity with help. Do we simply want to subsist, to barely survive? Or do we yearn to honour the gift of life by flourishing? Are we the 'respected human'?

Respect is without question the path to joy, peace and happiness in my view. It is for this reason that respect is the very first facet of my 'ROCK'. Without holding onto this guiding principle on my journey, I would not be the Adv. Ayesha I am today. Respect defines the parameters we establish for acceptable conduct. There are clear deal breakers. I have set my perimeters and parameters. Have you? Hitting and forms of verbal abuse, for sure, are indicative that there is a lack of respect in my frame of reference. What are your parameters? It is important to set our own boundaries. If we do not, others have a free reign.

Consequently, I choose not to invest or spend energy in toxic engagements. I am guided by my compass of respect as to the course ahead. We stray. Sometimes moving close is how we know that this is the wrong road. This is not about judgments. This is but one world view of '*imbokodo*', 'ROCK'. Everyone has their own guiding principles. What beacon shines for you?

If we want to be treated with respect then so too we must treat others with respect. We can only give what we have. Work towards self-respect. Respect permeates our existence. We must be conscious of conduct that is disrespectful. Our antennae must move towards respect and signal turns away from disrespect. Abusers often entrap us through apology after apology until our self-esteem is so battered and bruised that we believe we deserve no good and attract the harms.

This cycle is tough to break. 'Let habit be your servant and not your master.' I encourage those in abusive relationships to reach out to kindness and perchance the compassionate listener. A trained professional is a commendable route for healing and actualising the coveted 'respected human'. This skilled person may have tools to navigate the hurdles to joy.

Talk. Trust in breaths. Start with a whisper and when we are strong enough, shout and scream. Shame forces us to push away those who care for us. Keep your friends and allies close. Abusers attempt to isolate you so that you have no support to leave the abusive conduct. This way the abuser can dominate your mind. Perhaps find an independent care giver or ally, someone that has your back, even if it is a priest, rabbi, imam, friend, sister, brother, mentor or fellow alumni.

Also, please question the apologies. Will there be a repeat of the abuse? This is likely without more. The time there is rarely a repeat is if the abuser is receiving professional help to deal with the core problems occasioning the toxic conduct perpetrated upon others. It is difficult to seek help. Very often, just when the breakthrough is close, the person counselled stops treatment. This arises as the pain that needs to be confronted is probably too much to bear. It is a tough process to heal past hurts. It is possible through a lot of work and steadfast commitment to heal. If you see no evidence of this committed work, then surely the disrespect and abuse will continue?

Respect may be defined as '*due regard for the feelings, wishes or rights of others*'. Love sometimes is defined as '*a strong feeling of affection*'. Abuse at times is defined as '*treat with cruelty or violence, especially regularly or repeatedly*' or '*the improper use of something*'.

The R defining my *imbokodo* or rock is Respect. Love is important. It is not my compass. Respect is the guide. Often it is said, follow your heart or do what you love. I distinguish this from passion. Passion and love are not equals. Passion is the fire that ignites us into movement. Love is the feeling. Is it practical to love something or someone every second? How is this possible if we are angry?

Yet, as we feel the various ranges of emotions that we must to honour our humanity, respect is the core value that can live in our beings together with the emotions. Respect reigns in or sets these emotions free within her parameters. Respect can co-exist with all ranges of emotions. Possibly, it is defined by reason as one chooses the frame for acceptable conduct. Perhaps love based on respect can do this too. We can respect a person and feel hatred for particular conduct. Respect regulates what we do with these feelings. Do we act on it or walk away and allow the toxic emotions to dissipate until we can speak to the other with dignity and respect affording them the rights of the 'respected human'?

'*We must love what we do*', we hear often. Indeed, be passionate about your calling, your profession or what you do. Passion is defined at times as a '*strong and barely controllable emotion*'. Passion is not love. Passion is more than love. It is

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fire. It comes from our core and drives us beyond the ordinary to extraordinary. Be passionate about what we do. Respect what we do. Understand the value of our work's contribution to society and how we serve as we do that which we are passionate about, that which moves us.

I am not led by love. I am led by passion and respect. Given the choice between the two, no doubt, respect is my higher value and guiding light. Love based on respect is the love that resides in my light. Respect is what shines through as integral to my *imbokodo* and ROCK. I respect what I do. I appreciate and value the contributions my skills as an advocate may have on society.

This respect for what I do, this understanding of how being an advocate adds value to life and impacts disputes contributing to peace, keeps me going through those dark moments when being an advocate is really tough. I push past and continue advocating. I am moved by my passion for justice, my passion for dignity, equality and freedoms infused in *Ubuntu* and *Zenzele*.

My quest for actualising the 'respected human' drives me past the oppression. In the times when there are daggers aimed and when all those try to shatter our quest, the passion for justice and the need to stand firm against oppressors spurs us to rise to the challenge and smile ready for battle, in the face of onslaught. Each attack only chisels the diamond to sparkle some more. The *imbokodo* is fashioned.

The rock moves and rolls to crush the attack. This is what I understand is meant from 'You strike a woman, you touch a rock.' Hitting a rock dislodges it into movement and it is powerful and rolls to crush all that stands before it. *Wathint' abafazi wathint' imbokodo*.

OPPORTUNITY COSTS

ROCK = (Respect + OPPORTUNITY COSTS + Consultation + Knowledge)

What are the opportunity costs? I factor in the opportunity costs in decision-making. I majored in Economics in my Bachelor of Commerce degree. My first encounter with 'opportunity costs' occurred in 1994 at the Nelson Mandela University in my Economics 101 lecture. Economics ignited my passion for the markets which I have been studying ever since.

Opportunity costs are those costs associated with foregoing the next best option. Wikipedia explains opportunity costs as follows: '*In microeconomic theory, the opportunity cost, also known as alternative cost, is the value of a choice, relative to*

an alternative. When an option is chosen from two mutually exclusive alternatives, the opportunity cost is the “cost” incurred by not enjoying the benefit associated with the alternative choice.'

Accountants assess profits and loss according to Generally Accepted Accounting Principles (GAAP). Turnover less costs equates to profits. There are gross and nett profits in accountancy. Opportunity costs is absent from the accountant's balance sheet. Not so for the Economist. Economists include opportunity costs as costs of the choice. Being alive to alternatives provides a proportionate measure to the choices available. It also affords us the opportunity to choose that which will be the most beneficial in our passage. Which choice will bring me closer to where I am headed? Does this election take me closer to actualising as the 'respected human'? This is how I incorporate opportunity costs into my ROCK, my *imbokodo* and ultimately that which has a hand in shaping me.

You are reading this work now. This choice has a cost. If you chose not to read this, what are the costs to you at this juncture? What are the next best option and the alternative to reading this Collection? You could be watching a series show on Netflix or a movie at the cinema house. You could be simply relaxing with some music and spending time with friends and loved ones. These all constitute alternative choices in the application of your time. There is a cost associated with not reading this Collection. The cost would be whatever gain you achieve by assimilating the words herein measured against the next best option. These are values defined by you in the context of your aspirations. Perhaps the next best option is reading some other compilation of thoughts. You are the decision-maker. Consequently, you evaluate the alternatives as we all have our own set of options prior to exercising choice. The art of ascertaining the values and opportunity cost lie in being conscious of the options.

What is the next best alternative in your range of options? Compare this and ascertain where you will derive the greatest gain as a person on your own measurement. This is subjective. We are all at different places in self. Consequently, our estimation of gains and losses will be different. If you are writing an exam in two days you may choose to study and not read this literary work as the gain from achieving a strong result in the examinations may be more of a priority. Alternatively, this work may be such an inspiration that it spurs you to study even more than you would have had you not spent time absorbing this content. It is subjective.

Incorporating opportunity costs in decision-making is empowering. We choose how we spend our time. We evaluate options daily. Whenever I am unsure, and

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rest assured those days will arise when you rather want to lie in than head out and invest time in projects, I invoke opportunity costs in my assessment of how to spend my time. It guides my choices. Opportunity costs inform my actions and impact the facets that constitute me, Adv. Ayesha. I am empowered to decide in a way that brings me closer to my objectives. I walk towards self-actualisation and the 'respected human'. It makes sense to align tasks with objectives that spur me to my highest purpose. Then, all my time is well spent. Time is precious. This second becomes a minute then an hour that we never have again. What can I show for this hour? Is it an hour well spent? Does this hour actualise the 'respected human'?

How do you make decisions? There may be many better ways. Bear in mind that these facets of my *imbokodo* are applied in unison. These are principles which sparkle in synergy. One facet alone does not provide the same shine as does the application of the whole. I believe very much in synergy. Dramatically explained as: $(1 + 1) = 11$ or two and two equates to twenty-two. The whole is greater than the sum of its parts.

Ubuntu. I am because you are. We are connected. So, too, are the parts of my *imbokodo*. Together we are more than we are alone. This is synergy. Similarly, there is no one facet in the components of my ROCK that operates to the exclusion of the others. These facets together synergise into a diamond, a rock, an *imbokodo*. Do you notice that the application of choice is also very much in line with our SABWiL Ethos and philosophy of Zenzele? We exercise the dignity, equality and freedoms held by 'the respected human'.

The diamond light touches more than the diamond, does it not? *Vuk'uzenzele*. We do it for ourselves, collectively.

CONSULTATION

ROCK = (Respect + Opportunity Costs + CONSULTATION + Knowledge)

Part of my DNA is consultation. Facets sparkle owing to the wisdom of others. Newton's adage: '*If I have seen further it is by standing on the shoulders of Giants.*' is apposite.

If there is a decision of great importance that requires action, I consult. Years ago, less wise to the ways of the world, I consulted with those who had technical skill on the concern. I believed that would afford me the information necessary to make the best decision. I was wrong.

Today, I consult not only with the person with the requisite technical knowledge on the topic but also with one who is a good and kind person in my estimation. Consulting and seeking knowledge from another who does not share values akin to mine may place the knowledge proffered in the wrong context. Context is important. An unkind person who lacks the values which I respect is not one with whom I choose to consult. Even if she or he is well-renowned as an expert in that particular field, absent kindness this person is not on my radar as a source of input. This is a lesson learnt after much strife.

Bad and unkind people cannot be trusted. They may have the correct technical knowledge but cannot be trusted on whether they share the actual facts or omit important information. They may mislead us. They may express views to endorse their own thinking and behaviours. I am wary and it is my right to seek counsel from those whom I consider honourable beings. We make mistakes when we are young as it is indoctrinated in us that the professionals or the purportedly erudite are the ones to hold in high esteem if one needs assistance on an issue. We may even pay for this at an hourly rate perhaps. We forget that highly skilled persons, too, can be perpetrators of the greatest evils. Why then consult with these persons unless we are satisfied that they are good and kind people? Who is good and kind with the requisite skill? You decide this. Choose.

To me, a good and kind person is one who treats others, no matter their station in life, as the 'respected human'. They care for the sake of caring and are not about fame and fortune. Good and kind people are for sure not driven by ego. They are beyond this limitation. Can you see now how this narrows down those with whom I consult when I seek input on possible options?

My key living consultant is my mother. As I am deeply spiritual I effect no decision that is of critical value to me without consulting spiritually with my Maker. Consequently, I pray for guidance or meditate on the avenue I intend taking asking for the blessing if it is good for my livelihood and for its removal should it be bad. I speak to various persons and debate the advantages and disadvantages of the intended course. This is peripheral to the good and kind person with the technical skill. Also, I read extensively on the concerns. I research the options so as to make an informed decision.

I study the options. I ask and ask and think and explore. For sure, I sleep on it. I always try and sleep over a concern. I do this because I believe strongly in the subconscious mind. The subconscious mind to me is way more resourceful than the conscious mind. I was a cigarette smoker for about twelve years, from ages 15 to 27, and stopped with the power of the subconscious mind. Will power or the

Imbokodo

conscious mind is not as powerful as that deep part within that cannot be accessed by mere cognition.

My ROCK is actually quite simple. Each of you will find your own facets of your *imbokodo*. Some are still very much being chiselled. The diamond is there. We are born with diamond light. The blows merely polish the rock releasing the sparkles. Strife and critique do not diminish us. The harsher the blows are, perchance the stronger the diamond's light. We endure much assault in order to move beyond so that we and others feel the glory of our light. Diamonds do not shatter. Diamonds sparkle. We are those diamonds. We are the rocks. Find your own imbokodo facets. No blow diminishes us. *Wathint' abafazi wathint' Imbokodo*. Our courage and strength comes to the fore.

Igama lamakhosikazi malibongwe. Who will you approach to inform your decisions? Does any good and kind person with the requisite technical skill come to mind?

Enterprise development is much enhanced by sourcing synergised passionate intelligence from a Think Tank duly constituted for that purpose. Similarly, herein may be the intelligentsia who are good and kind persons with the valued technical skills. Seeking solutions is purpose driven. We confront the elephant in the room. We join minds to celebrate the opportunity created by the obstacle. We evolve.

Remember, we own our paths. We own our choices. Others may contribute to our decision-making process if we so decide. We may disregard input or amplify it. We are the gate keepers to how we feed our minds. *Vuk'uzenzele*.

KNOWLEDGE

(ROCK = Respect + Opportunity Costs + Consultation + KNOWLEDGE)

Knowledge is power. Do you agree? Raise your hand if you do or stand up in acknowledgment. No one is watching. It is a personal exercise. This simply defines your position at this point. It will be of interest if your position alters once you close this Collection. You can reassess your stance thereafter. Perchance you are moved. Is knowledge power?

Now that you have decided whether you agree or not, I will share my view. Knowledge is not power.

What is knowledge? Knowledge may be defined as *'facts, information, and skills acquired through experience or education; the theoretical or practical*

understanding of a subject' or the *'awareness or familiarity gained by experience of a fact or situation'*. What do we define power as? Power can mean *'the ability or capacity to do something or act in a particular way'* or *'the capacity or ability to direct or influence the behaviour of others or the course of events'*. How do we justify a leap from knowledge to power? Is it defined the same?

Knowledge is not power. We have the proof. Read the definitions in dictionaries. Are they synonyms? Do we use 'knowledge' and 'power' interchangeably? 'She is knowledgeable.' Does this equate to 'She is powerful.'? How many people have acquired knowledge which they do not use or perchance misuse?

Library books record so much data we assimilate into knowledge. There are those with degree after degree. Others have skills developed over years in the trade or craft. How does all this knowledge equate into power? It does not. Knowledge without more surely does little. Knowledge in order to be powerful must be used. Knowledge must be applied to be powerful. Knowledge that impacts society and touches lives for the betterment, this is positive power. Unused or abused knowledge is a dishonour to the teachings. Worst still is when we use knowledge to minimise the 'respected human'.

I learnt this from a study of the explanatory notes in the translation of the Qur'an. *'Protect yourself from useless knowledge.'*, I read words to this extent therein. I grappled with this sentence for years. I did not understand the meaning thereof. How could knowledge ever be useless?! What is the meaning hereof? I was puzzled. No knowledge is useless was then ingrained in my belief system. Yet, theologians explained that we are to guard against useless knowledge. What? I found this an oddity. It did not make sense. This unsolved puzzle was at the back of my mind as I journeyed forward. One day, I finally understood. The pieces of the puzzle fit.

I understand now that knowledge must be applied. For us to honour learning, we must apply the teachings. Also, not simply any application is honourable. The knowledge we acquire must be used in a way that serves and honours society. Everything we do has an impact. For knowledge to be powerful it must impact society positively. We must know how to use this knowledge. To accumulate knowledge with no purpose in mind surely cannot serve anyone. This is my belief. This is part of my *imbokodo*. This indelible notion that knowledge must be used to serve society and enrich lives is part of my ROCK. Knowledge is not power. Knowledge, to be powerful, must be applied positively. This is my world view. This enables an environment conducive to the 'respected human'.

Imbokodo

If we are privileged enough to have acquired knowledge through an institution or a trade or by sheer reading, is this enough? Is this valuable without more? I believe in using knowledge for good. Knowledge, to be powerful, must be applied. Knowledge, to be powerful, must be USED to IMPACT SOCIETY. To be truly powerful, do that which touches lives. Success is when another life breathes easier because we have lived some luminary reinforces and which I accept. Knowledge without more is not power.

We must apply that which we learn. As we implement, we refine the learning. Practice upon practice forges experts. Seek knowledge in order to add value. Seek knowledge in order to use it nobly. Touch lives. Do some good. Perchance, impact society at large.

Believing knowledge alone begets power creates unrealistic expectations. Acquiring knowledge is a passage to power. Using this acquired knowledge to impact lives for the better is the highest form of power. Once we acquire knowledge, we bask in the shade of those who know how to use it. Once again, we are students of the practitioner.

If we are fortunate we are learning for life. There is an interchange between acquisition and application. This does not end. It is a daily and loving grind. The context is always evolving and so, too, must the learning. We need to remain relevant. I invite you to view our SABWiL YouTube Channel. Thereon, we publish the interview of our inaugural SABWiL Human Rights Court (SHRC) Chief Justice Adv. Lindi Nkosi-Thomas SC. Listen as the leader and first Chair of SABWiL NPC articulates the value of 'relevance'. Kodak no longer exists yet they were the pioneers in photography. We need to evolve in context even as we lead. We must remain relevant. How does one achieve this? I proffer that this happens when we impact society and touch a life, even our own.

Learning is endless. Learning is constant. Serving society with the knowledge we use is not selfless. It is how we are relevant. It is how we contribute. We do this when we work. When we serve we touch lives. We add value. We matter. We count. Acquiring knowledge without any application for the betterment of self and others surely is a journey off course. I am not prescribing selflessness. We are not martyrs. My path is one that finds enrichment when not only my journey eases but I touch others too. Honour the path to power and use knowledge to add value to one's own life and others. I do not advocate a sacrificial perspective. We learn as we teach. We learn as we apply. We evolve as we impact society. There is nothing selfless about serving in the context I present for empowerment.

Now that I have shared the material constituting my ROCK, are you ready for a challenge? As you shape your *imbokodo*, share with us the very facets that are the making of you. What will be the core of your shine? If you are already *imbokodo*, think about what underpins all that beams majestic sparkles. What are these facets, pray tell? We are different. Your facets may not be mine. This is the bond of respect. We contribute to society differently. In synergy, we are stronger. I am because you are. We are connected. Our knowledge, touching others, is powerful.

Ubuntu. I am because you are. *Vuk'uzenzele*. Stand up and do it for you. *Igama lamakhosikazi malibongwe*. And let the name of women be praised. *Wathint' abafazi wathint' Mbokodo*. You strike a woman you touch a rock. As we journey let us find passages that enable the 'respected human' and so actualise the values of our nation as embodied in our South African Constitution, Act 108 of 1996.

CONSCIOUSNESS V

SABWIL EQUATION



Consciousness V

SABWiL EQUATION

'I'm going to be me as I am, and you can beat me or jail me or even kill me, but I'm not going to be what you want me to be.', Steven Biko

This Chapter connects the components of our SABWiL Equation. The various facets of the equation are debated. We propose that applying the SABWiL Equation leads to the actualisation of the 'respected human' as envisaged by the Constitution, Act 108 of 1996.

The SABWiL Equation is as follows:

$$\text{Consciousness} = \text{Opportunities} = (\text{Dignity} + \text{Equality} + \text{Freedoms})$$

Consciousness is very much about depth and exploring what lies beneath what we at first see. It is about not taking things at face value. It is about seeing the substance with the form and not being blinded by what is overt. It is about engagement. The human mind has latent treasures. These rough diamonds lay embedded within our subconscious. Once we bring these stones to the fore the diamonds sparkle. We then see the depth of our actions. We are empowered to release and employ the silent knowledge driving us into a decided passage. We are in charge of our direction and conduct as best we possibly can be.

How does consciousness lead to dignity, equality and freedoms and the evolution of the 'respected human'? Once we are conscious of what is hidden we can somehow release what drives us subconsciously. The secret buttons pushing us, fashioned from childhood and circumstances, no longer is the driver. We exercise choice. We accept responsibility and are whole in how we propel ourselves forward. We are conscious. Our actions are chosen. We are the decision-makers. We are free.

Consciousness is important to release unconscious bias. It ensures that prejudices we collect over the years are questioned. Some do consciously choose the bias and discriminate by choice. We all bear a responsibility to be our best human and self-actualise so that we live and breathe as the 'respected human'. This needs internal work. If we choose to discriminate then no doubt we must suffer the consequences which are not only injustices perpetrated against ourselves but injustices we whip over humanity. We harm ourselves too when we perpetrate injustices.

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Luminary Steven Biko was very much about consciousness. He proposed that we revel in our 'Blackness' and obliterate the negatives fostered upon our psyches by the apartheid regime. Biko's philosophy is still applicable not only to 'Blackness' but also to gender and all that makes us who we are. We must revel in self. We must acknowledge our good and bad and so hold hands with the parts of us that we are joyous to embrace and say a kind word to those parts of us that we choose to develop. We must take charge of our character. We must work towards actualising the 'respected human' and the legal landscape must enable the 'respected human' to flourish.

When we harm others, we harm ourselves. When we help others, we help ourselves. *Ubuntu*. I am because you are. We are all connected. Our golden thread lies in actualising the 'respected human', this dignified, equal person with much freedom as contemplated in the founding values of our South African Constitution. Our purposive test must lead to this 'respected human' in interpretations of constitutional texts.

When we are fully conscious of the damage and scars left by oppression, be it an insult or injustice, we are open to opportunities. What at first is an obstacle metamorphoses into an opportunity. We accept that there is more to our path than the hardship and pain. We are alive with hope. Consciousness of that which is latent can turn challenges into triumph.

Opportunities are a possible way out of the darkness. Opportunities forge a passage to live with dignity, equality and freedoms. It is tantamount to rising with others and not being the only person upon whom the sun shines. As we rise, ease the journey for others, be it systemically or otherwise. There must be a yearning for others to rejoice as we do. This is the spirit of *Ubuntu*. The sun can warm us all.

When I embrace this philosophy as part of my value system then, once I have, I am keen to help my brother and sister have too. Their enrichment is mine. *Ubuntu*. We are bonded. When my sister is in pain then the whole is less. Humanity is weaker because one of us hurts. Synergy applies, that being, that the whole is the sum of the parts.

We must pay it forward and help others where we can. We all can help. By this we must not disable but rather enable. Co-dependency is not part of this. If I have smile in my heart and my sister does not, I can lift her day with kindness. This kindness is affirmation of the dignity of the other. It affirms the being that is broken or whole. Kindness is indistinguishable from *Ubuntu*.

Consciousness of hidden truths is the path to self-actualisation. Consciousness as an individual, consciousness as a society and as a nation, from the vantage points of *Ubuntu* and *Zenzele* philosophies, of the ills and harms we suffer individually and collectively, is how we take willing steps towards the problems and work towards the solutions, individually and collectively. Laws on its own cannot heal and develop a person and society. Laws without more will not result in the 'respected human'. We need consciousness. The truth requires expression in order to metamorphe.

We need to revel in our Blackness. We need to revel in our gender. We need to revel in our sexual orientation. We need to stand in grace. We need to stand tall in our gender, sex, religion and all that defines us. We need to work individually and as a society on the parts that are broken so that we may heal individually and as a nation.

Others cannot help us until we help ourselves. Opportunities may present and only if we step up can we move beyond. If we lose hope and accept a life of anything less than the 'respected human', we are defeated. The oppressor wins. It is human to pause and observe as we journey. Rest is critical. In these pauses we accept the moment. To live in the moment is to truly be. We are not ensnared by yesterday or tomorrow. We find our fullest expression in the now. Breathe and be.

Abusers are cowards. First they berate us jokingly until it is overt. They de-sensitize society and create a rational basis for robbing us of our dignity, equality and freedoms. They strive to bash our spirits until we finally believe we are as vile as they depict us to be and we lose hope. They are keen that we accept a lowly station, grateful for the hand-outs.

Luminary Biko was very conscious of this psychological oppression. This perchance is why he is lauded as the vanguard of Black consciousness. Steve Biko served to restore our hope and knew that '*the greatest weapon of the oppressor is the mind of the oppressed.*' He was murdered for his consciousness. His very existence was a threat. Stand up and do it for you. *Vuk'uzenzele*. Broken or battered, we breathe and are still able to reach for glory which most times beget from kindness borne from acknowledgment.

Consciousness may be defined as 'the state of being aware of and responsive to one's surroundings' or 'a person's awareness or perception of something'. Consciousness = Opportunities? Can this be? How so? We know what consciousness is. It is acknowledgment of the depth of what lies before us or within us. Acknowledgement is a form of acceptance and once we accept the

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current status then we move towards change. This form of acceptance does not mean we surrender to the status quo. It is consciousness of the hidden facts that drive behaviour.

Opportunities may be defined as 'a time or set of circumstances that makes it possible to do something.' Consciousness and opportunities are not synonyms and yet I equate these concepts in our SABWiL Equation. How so? Opportunities stem from perception. An obstacle is an opportunity if we perceive it to be so. We embrace this perspective if we are conscious.

Opportunities can stem from a third party providing a clear opportunity or it can be from an inner perception of an obstacle. Even if another provides opportunities, if we are not open to seeing this as an opportunity and remain set in our circumstances without hope, it is not to us an opportunity. Consciousness is the doorway to opportunities. Without consciousness, we will not embrace the clear opportunity before us nor will we see beyond the obstacles.

How do we move if we remain stuck in the darkness? How do we evolve? How? I have techniques which I employ to change what is at first harmful into seedlings for the juiciest fruits. The mind is so immensely powerful if only we know.

Until we feel the pain of the now and mourn our loss we cannot move beyond it. We remain stuck. Feeling the stored up emotion and mourning is a way out. Do not take this as permission to remain indefinitely in a mourning moment. We can feel the depth of anguish and then stand tall and walk towards the glory. If we stay in the pain too long it becomes our identity and so we remain shackled and oppressed. *Zenzele* is about taking control of our pain, looking at it until we are ready to feel it and then begin the journey into pleasure. We need to comfort our hurt Self, ourselves. No one can heal us but ourselves. The kindness of others can draw us to the light. Only we can shine from within.

Another technique is grace. Gratitude for the pain in anticipation of the magnificence that awaits us perhaps is a way. This is tough. Who is thankful for receiving something unwanted? How do we find benefits in that which comes to us as a calamity? Is this even human to do? When we are challenged it is wise to approach the issues from every angle. Chisel away until the solutions unfold. This is the making of an *Imbokodo*. We withstand until we dare the diamond to manifest. We accept nothing less. It is the way of the *Imbokodo*.

Vuk'uzenzele. Stand up and do it for you. Self is the collective self. African philosophy does not recognise an 'I'. What we do for one, we do for all. When we

rise, we rise for our sisters, our brothers, our mothers, our fathers, our ancestors and our children. *Ubuntu*. I am because you are.

Define luck. Define success. What is this to you? Luck may be defined as: SUCCESS = (Preparation + Opportunity). One must constantly prepare. We must work on ourselves and pursue excellence however and whenever we can. Like Oprah Winfrey says or words to this effect: 'When we sweep the streets, we must do it with excellence.' Whatever we do we must ingrain excellence in our conduct. Excellence must be a habit.

With this attitude once the opportunity presents itself we are ready to seize the moment. Others without consciousness may say we are lucky. The conscious 'respected human' knows this journey and recognises our success for what it is and applauds. We have actualised as our highest self. We have moved beyond the pain into the freedoms or pleasures enjoyed by the 'respected human'.

The 'respected human' is by no means one who has no more to learn. Whenever we reach a plateau, we rest. It is a pause of the comma. This is no full stop. There are always greater heights. We can always see further. In this pause we may rejoice in our success yet there is still much work to do. The final rest in self is possibly death. Life pushes us. Each breath is a fight for survival. Oxygen is pumped throughout the body. It reaches the brain that activates the mind. Without this oxygen, we lose our minds in around four minutes. It literally takes about four minutes without oxygen to the brain to induce brain damage.

There is no permanent rest in living. This is the beauty of life and the marvel of the mind. We can always learn something new and develop and grow in other spheres. Boredom is for the weak-minded. There is so much to do and learn about. Clever people are never bored. They live and breathe the *Zenzele* philosophy and are always evolving. *Vuk'uzenzele*. Stand up and do it for you.

My late father, a member of parliament in the first democratic parliament led by the first democratically elected President of South Africa, Nelson Mandela, when I was a teenager shared this pearl with me. I had complained of boredom and Dad said: 'Only stupid people are bored.' Since then I have never been bored for more than a minute. When boredom knocks at my door, I do not open. I rest if I must and then I seek out new lessons. I seek out opportunities to grow and acquire knowledge. I do this consciously. I work on being a better me and better person in society so as to serve as best I can. I choose respect first and know that happiness is an emotion. The latter comes and goes. All ranges of emotion are of value. We cannot live in euphoria with permanence. This is irrational. Respect is integral.

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Respect must live alongside any emotion the moment calls. Refer to the *Imbokodo* part of this Collection of Consciousness as a refresher.

The discussion on consciousness is unending. The mind is unending. The brain is matter but the mind is so much more. Of course, nutrition and exercise play a role in ensuring the brain can house an impeccable mind. If we are on drugs, we impede our mind or use tools to alter consciousness. The problem with this tool in shifting consciousness is that it offers temporary release with long term consequences of dependence perhaps.

It is harder to shift consciousness naturally. It is tough to stay quiet in the moments of pain that quiet acknowledgment brings. Yet, there is freedom in the acceptance and ultimate release of the barriers we have within self. Most times these barriers develop to protect us from harms inflicted when we were vulnerable and unable to fend off the oppressors, be it human or habit. To teach oneself that we are safe and that we can let go of tools that ensured our survival is not easy. We need to learn how to choose when to pick up tools and when simply to leave it be. The habit that served us must not become our master.

The best book I have read on healing and self-actualisation is '*The drama of a gifted child*' by Alice Miller. No doubt Steve Biko's '*I write what I like*' is the ultimate literature on Black consciousness and a must read. Literature about co-dependency and boundaries are essential reading for those who suffer oppression and abuse. These are but a few tools to reach consciousness and be ready for opportunities and success. Healing happens at first in small tiny tentative tip-toe steps. Thereafter, we boldly stride forward claiming our light. This is how we change society. This is how we move forward.

We must be authentic. We must embrace our truth and dare the world to receive our diamond light. We cannot live in spaces provided by others who care not that we are 'respected humans'. We need to walk tall and claim our rightful space in society. This way we shatter barriers that limit our self-actualisation. We will no longer breathe in the toxins released by the oppressors, be it action or structures. We will not allow others to dull our shine and make us ill. It starts in our homes, this breathing of oxygen. It starts in schools and places of learning. It starts in safe spaces created by kindness and love. It starts where respect is bold. If we breathe in good air in small breaths in safe spaces we know the life it brings. We are invigorated. We then naturally reject any inhalation of by-products cast our way by the oppressors.

Consciousness = Opportunities = (Dignity + Equality + Freedoms). The SABWiL equation is but a path to the 'respected human'. No doubt there are many roads to heaven. Consciousness is about breaking innate bias. It is about rejecting the oppressor's ideology. It is about self-determination. It is about applauding our identity and celebrating the differences.

There is not much we can do about those that are consciously biased except use the heavy hand of the law to teach them the standards of our society. Some oppression is conscious. These are racists and sexists who deep within believe the discriminatory practices are justified. There is nothing unconscious about their oppression. We choose how we respond to these perpetrators of abuse. We must carefully respond and not react blindly in anger and rage. Their darkness must not dull our light. Close the doors to the conscious oppressors with the might of the law. We cannot help them until they choose to help themselves. We can maintain our dignity and our light in the face of the onslaught. The only revenge is to be authentic. Do you. Flourish. Soar. Success is when we touch one life for the better. Be successful. Impact a life.

Prepare so that we are ready for the opportunities we create or are privileged to enjoy. Attract opportunities. If you find none, think and create some, if not for you, for others. Explore opportunity after opportunity and do not be deceived into thinking one opportunity suffices on the road to the 'respected human'. How do we become experts in a field if only one opportunity is within our reach? Others are afforded opportunity after opportunity and so can gather hours that are needed to be experts. If they fail the next opportunity is already lined up. If we fail, we must fight for access to the next opportunity. This is the design of discrimination and its impact. Alive to this, we are not disheartened and persist. Failure is when we accept the fall as the permanent state we deserve. It is clever to be conscious that victory is born from falling and arising again and again. Stand up and learn.

I impress that an expert is not made by one opportunity alone. Experts spend thousands of hours in the field and so, after many mistakes, perfect their art. If we seize one opportunity, we must be allowed to be human and err. Despite errors, we must be afforded opportunity after opportunity. We cannot become experts without forgiveness and help. It must be built into systems and structures that there will be human error. It must be accepted in the path to the 'respected human' that there is unending trial and error. Even if third parties judge us harshly by our last mistake we must reject this perspective as defining us as a whole.

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Oppressors no doubt hate our success and grasp on the errors we commit to define us indefinitely. They then point out and say, '*See, we are right. These people are not worthy of higher stations.*' We must give ourselves permission in our quest to stumble and fall. Naturally, we must accept the consequences of being off track. We must pay the dues. We must also pick ourselves up and walk tall again. There is nothing wrong with making mistakes. There is no need to be covert. We must carry these as badges towards excellence, as long as we learn from these errors and do not repeat the mistake one after the other living indefinitely in this tide.

Statistics have time and again evinced that same racial groups or genders often forgive mistakes of their own kind and harshly judge outsiders to their race or class or category. There is little forgiveness for those who differ. Variation is feared and a threat for the weak in mind. It is only when we have the opportunities to be experts that we can say we actualise the 'respected human' envisaged in the Bill of Rights. Until then, we are far from the vision birthing the Constitution of South Africa.

Prepare, prepare and prepare. Ensure that the systems and structures we are immersed in afford us multiple opportunities. There must be room for corrections. Participate in creating these structural opportunities. Problems are disguised opportunities. If multiple opportunities are not available then we must know that our station is limited. We must create these opportunities. Perhaps we are happy with the limitations? This is different. It is a choice and ours to make. If we try to grow and are held back whilst our peers are pushed ahead then this is systemic oppression and unacceptable. This ceiling is something we as Blacks, women and those who are different know too well.

Understand that becoming an expert and achieving success is not an overnight affair. It is an enduring marriage with the ups and downs. There are those moments where we believe that we cannot anymore. Flourishing is that marathon for which we prepare and plan. We need resilience. There is no full stop. We train and run all over again on different turfs with a body of a different age until again we reach the end only to pause and start again.

The mind needs constant nourishment. The same way we eat food and drink water daily to enjoy life so, too, must we on a daily basis feed our minds. It does not stop. There is no ceiling in self. We actualise only to reposition ourselves as a learner all over again in perhaps another area or in the same field but in finer detail.

What is dignity? Who is the equal person? Who is free? Imagine this 'respected human'. Be free in thought. I believe the 'respected human' is a person that lives in choice. This human being is not facing systemic oppression. This person can reach excellence. The environment is enabling. This person is not barred from being an expert. This person is imbued in dignity, equality and freedoms. This person is allowed to for
revel as a human.

This is where we must head as a nation so that we all aspire side by side as the 'respected human'. Is the person rummaging through garbage for food being treated as the 'respected human' by society? Is the raped woman being treated as the 'respected human' by the accoster? Is the gay being that is shunned by some being treated as the 'respected human'? No. No. No.

We that have must strive to create opportunities for those that have not. We that have not must create opportunities for ourselves or others as well. We must speak out and work towards the demise of barriers. How do we turn the obstacle into the opportunity? We cannot be like those Luminary Biko mentions in '*I write what I like*' who speak only for their own benefit, who purport to help others, yet, all they do is help themselves. There will always be those who fight hard to retain the structures that benefit them and not others. They say they want to help and even devise plans for our growth. In the end, they are the ultimate beneficiaries of the purported liberating yet deceitfully oppressive structures. They fight to maintain these structures so that we live in toxicity. They are afraid of our liberation. They do not believe we can live side by side as the 'respected human'. We can. Let us show them how.

Consciousness is how we fight for oxygen. Consciousness means we no longer are willing to live in spaces created by oppressors. We choose our paths. We create our own spaces. We self-define.

We that have must give. Giving need not be monetary. Kindness helps too. We may be open to showing others how to take the next step forward. Let us acknowledge that perhaps the hardest step to take is one out of the mud. If we stumble in a mudslide, it is not easy to pull ourselves out. We need help. *Ubuntu*. Consciousness is both a tool for those who have and those who have not. The have nots also have and may be grateful for what they do indeed have. If you have eyes to see you have sight. If you have hands you can touch. Having, or not, is relative.

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Gratitude is one means of being psychologically ready for opportunities. Gratitude for what we have is a key to opening a door to what we lack. Without grace in our hearts the light to success dulls. It is tough to find joy in what we have when we hurt for what we have not. Embrace resilience. We can rejoice. We, or those who's DNA we share, defeated the apartheid regime. We are a resilient nation. We rise above systemic oppression.

Until these oppressors raise their hands to reach out of the mud, we cannot help them. First, they must help themselves. They need to feel that the oppression is bad. We can make it intolerable through our laws. Our laws must be of such a nature that racists, sexists, rapists, killers and other oppressors do not flourish. The law whips them into shape. In form they comply. We cannot change their hearts. This only they can do.

Intrinsic in these laws must be room for the 'respected human' to flourish. Our laws must build in mechanisms to allow these oppressors to grow into the 'respected human'. We do not cast them asunder. They need our help the most. There must be a passage of rehabilitation. Nevertheless, the oppressor alone must acknowledge dignity, equality and freedoms are for us all and until he or she does, she or he forsakes consciousness. The sparkle of the conscious mind is brilliant. The shine is bright. It cannot be forced. It is a passage of choice.

Gratitude and grace do not complete the picture. We need technical skills. We must do the foot work to be as ready as possible for what is to come. So, we maximise the opportunities and perchance even create these. Is it acceptable that steps are taken to realise the right to higher education? Can we reach the envisaged 'respected human' with a guarantee to basic education?

Are the limitations on our human rights justifiable when we picture the 'respected human'? Are we being treated like the 'respected human' if we do not have built into structures the path to the acquisition of sufficient hours that actualises the expert? There are so many of us and so few structural opportunities. How do we actualise as the 'respected human'? How do we all have access to dignity, equality and freedoms with the limited resources available to realise our rights?

Our Constitution of South Africa acknowledges the systemic sufferings imposed upon us historically. How then can we not interpret the provisions in light of us all being treated as the 'respected human'? Is this not the only end to the purposive interpretation of constitutional text? Do we assess the objectives of the statute within the context of the 'respected human'?

We actualise the values of dignity, equality and freedoms once we translate consciousness into opportunity after opportunity after opportunity until there are no barriers to being experts if we so choose. This is how we test whether the founding values are actualised. Can we become experts in this field? Are there barriers that bar our excellence? If so, then we are not being afforded the passage to actualise as the 'respected human'. These barriers are how apartheid still lives. Until these barriers to excellence become opportunities we remain a limping nation. This contrasts harshly with the vision of the Constitution of the Republic of South Africa. This deterrent to excellence is an affront to our SABWiL founding values. It disserves us as a nation.

Consciousness that does not take us towards opportunities so that we can achieve excellence and so actualise our founding values is oppressive, albeit racist, sexist or classism and so many other forms. It is against our values as a nation and defies the peaceful transition from apartheid to democracy. Consciousness advances equal opportunities that culminate in dignity, equality and freedoms as exercised by the actualised 'respected human'. The SABWiL equation is but a passage to the 'respected human'.

Do you know of other paths? Have you lived it?

Igama lamakhosikazi malibongwe. Vuk'uzenzele. Wathint 'abafazi wathint 'imbokodo. Ubuntu.

Adv. Ayesha Tiry established the South African Black Women in Law (SABWiL) Foundation on 14 February 2016. She was moved to celebrate South Africa, Blacks, Women and Law. SABWiL is founded on dignity, equality and freedoms infused in the philosophies of Ubuntu and Zenzele. Respect is integral to our core.

Adv. Ayesha Tiry practises as an advocate in the High Courts of South Africa. She was admitted as an Advocate on 28 March 2000. On 3 July 2000 Adv. Ayesha successfully completed pupillage at the Johannesburg Society of Advocates having complied with the practical requirements and passing the national examinations set by the General Council of the Bar. She currently serves on the SAMLA (South African Medico-Legal Association) faculty. Adv. Ayesha has B. Com (Economics and Law) and LLB degrees from Nelson Mandela University (NMU). She completed a National Certificate in Information Technology (NMU) and a Certificate in Bioethics (Harvard Law). Adv. Tiry participated in the innovative Legal Technology Essentials course curated by the Bucerius Law School. She is also accredited mediator (University of Cape Town) and an arbitrator on the Arbitration Foundation of South Africa (AFSA) panel. As a student Adv. Ayesha participated in vacation work at three attorney firms, two in Port Elizabeth and one in Sandton. In the year following her time as a student, she acquired incredible knowledge clerking for Judges in the Gauteng Division (Pretoria), Circuit Courts (Potchefstroom and Klerksdorp) and Labour Courts (Port Elizabeth, Johannesburg, Durban). She was spurred into advocacy practice. Experiences with Justices of High Courts entrenched in her inalienable values.

SABWiL Imbokodo: A Collection of Consciousness crystallises Adv. Ayesha's sense of Justice in a constitutional democracy. Her Imbokodo is shared as Respect, Opportunity Costs, Consultation and Knowledge (ROCK). Adv. Ayesha hopes that Ubuntu is once again mentioned expressly in the Constitution, Act 108 of 1996; and that, someday, the African philosophy of Zenzele finds its way into our constitutional judgments. She advocates that the purposive test, currently applied in the interpretation of constitutional text, be extended to incorporate the 'respected human'. Adv. Ayesha Tiry assimilates dignity, equality and freedoms to consciousness and opportunities through the SABWiL Equation.

SABWiL Imbokodo: a Collection of Consciousness is dedicated to SABWiL Alumni and written as a guide for our youth in law. Still this Collection is a provocative read for anyone interested in actualising the values of our nation as embodied in the Constitution of our land, so that we all live as the 'respected human'.

Igama lamakhosikazi malibongwe.

