

RECOMMENDED WORK PROGRAMME

No	TC 1	TC 2	TC3	TC 4	TC 5
1.	1. Democracy 2. Character of State	1. Separation of Powers	1. The Nature of the Provincial System and Local Government	1. Constitutional Principle II	1. The Relationship between different levels of the Court 2. A Single or Split Judiciary
2.	3. Single Sovereign State 4. Supremacy of the Constitution	2. Structure of Government	2. Allocation of Powers 3. Legislative Competence	2. Equality 3. Human dignity 4. Privacy 5. Freedom and Security of the Person 6. Life 7. Religion, Belief and Opinion 8. Freedom of Expression	3. Constitutional Court 4. Other Court Structures
3.	5. Separation between Church and State 6. Economic Constitution 7. International law	3. Traditional Authorities	4. Provincial Legislative Authority (excluding electoral system)	9. Freedom of Association 10. Freedom of Movement 11. Assembly, Demonstration and Petition 12. Citizen's Rights	5. Traditional Authorities and Customary Law
4.	8. Representative Government	4. Volkstaat	5. Provincial Executive Authorities	13. Political Rights 14. Language and Culture 15. Residence 16. Environment	6. Structures dealing with Appointments (Judicial Service Commission & Magistrates Commission)
5.	9. Accountable Government 10. Equality	5. Electoral System	6. Local Government	17. Servitude and Labour 18. Economic Activity 19. Property 20. Labour Relations	7. Other Judicial Institutions (eg AG and State Attorney)
6.	11. Freedom of Information	6. Amendments to Constitution [National Second Chamber]	7. Electoral System of Provincial Government	21. Administrative Justice 22. Access to Information 23. Access to Courts 24. Legal Representation	8. General (Court Language, Interpretation of Laws & Amnesty)
7.	12. Suffrage 13. Citizenship			25. Children 26. Education	9. Transitional Arrangements
8.	14. Language		8. Financial and Fiscal Relations	27. State of Emergency 28. Suspension and Limitation of Rights	10. Legal Education 11. Legal Profession
9.	15. Name and Symbols			29. Customary and Traditional law 30. Group & Minority Rights	
10.	16. Preamble				

THEME COMMITTEE 6 - SUB-THEMES				
No	Public Administration	Financial Institutions & Public Enterprise	Transformation & Monitoring	Security Apparatus
1.	1. Public Service	1. Financial and Fiscal Commission 2. Financial Institutions and Public Enterprise	1. Commission on Gender Equality	1. Supremacy of the Constitution, Accountability and Control of the Security Forces 2. Conduct in the National Interest
2.				
3.			2. Public Protector	2. Police
4.	2. Election Commission	3. Auditor-General, Reserve Bank, the Budget Procurement and National Revenue Fund		
5.			3. Human Rights Commission	3. Correctional Services
6.				
7.			4. Commission on Restitution of Land Rights	4. Defence
8.				
9.				5. Intelligence
10.				

**CONSTITUTIONAL ASSEMBLY
ADMINISTRATION
STRATEGY WORKSHOP - 22 NOVEMBER 1994**

MINUTES

Chair: Edward Shalala
..... Stoncey Lebethe

. Louisa Zondo

Present:

Zuleila Adams
Nonkosi Cetywayo
Hassen Ebrahim
Pat Fahrenfort
Sandra Haydon
Margy Keegan
Tango Lamani
Fazela Mahomed
Katherine McKenzie
Lucille Meyer

Thandi Mngadi-Kgosidintsi
Mbasa Mxenge
Derek Powell
Khulile Radu
Leola Rammable
Edward Shalala
Enoch Sithole
Marion Sparg
Eunice van Eck

1. WELCOME

Edward opened the meeting at 08h40. The workshop adopted the agenda.

2. OUTSTANDING ISSUES

2.1 TECHNICAL COMMITTEES

2.1.1 ..Louisa reported that the issue of Technical Committees was still unclear. It seemed that Theme Committees might not want three permanent members of Technical Committees. Rather, they wanted fewer permanent members and a greater number of short term advisors. She noted that the Constitutional Committee had resolved that the peculiarities of each Theme Committee had to be taken into account in structuring Technical Committees. The Rules made provisions for formal committees with chairpersons. This problem could be circumvented by creating a small standing committee of Technical Advisors, with short-term advisors coming in as needed. The Management Committee could discuss remuneration. Louisa asked Theme Committees to respond to her summary and offer suggestions about what Technical Advisors would do.

2.1.2 ..Theme Committees commented as follows:

- i. Technical Advisors were a controversial issue for Theme Committee One, because members feared partisanship.

As a result, it was decided that each party would nominate Technical Experts.

- ii.Members in Theme Committee Two had problems conceptualising the issues, because they lack sufficient legal training to understand the the process.
- iii.Theme Committee Three wanted Technical Advisors on a permanent basis. Some members wanted Technical Advisors to draft texts with Theme Committees giving political input and ratifying reports.
- iv.Theme Committee Four agreed with Louisa's summary.
- v.Theme Committee Five was using the same criteria to select its Technical Experts as was used to select the Independent Panel of Experts, although rather than requiring expertise in constitutional law, they would be recognised experts in their field. The Theme Committee held that the Experts would facilitate and guide the drafting of reports, but members would do the actual report writing.
- vi.Theme Committee Six agreed with Louisa's summary.

2.1.2..Hassan and Edward raised problematic issues, including the wider role of Technical Experts, logistics, and the need to clarify their role in relation to the Research Department and Legal Advisors. The Workshop agreed that this would be discussed under Agenda Item 5: SWOT analysis.

2.1.3..Two proposals were given for structuring the Technical Advisors relative to Theme Committees:

- i. Technical Committees and the Secretariat would form two distinct structures; or
- ii.Technical Committees would form part of the Theme Committees within the Secretariat, with their work being monitored and co-ordinated by the managing secretary.

The workshop agreed that this would be considered under Item 5: SWOT analysis.

2.2 SUB-COMMITTEES.

2.1 Derek spoke to a document entitled, "*Draft Memorandum on Sub-Theme Committees and Commissions,*" tabled at the workshop.

2.2 Marion noted that line 18 of the document should be amended to read "Traditional Authorities and the Volkstaat (Theme Committee Two)".

2.3 Theme Committees agreed in principle with the document, but felt for the most part that the creation of sub-structures created logical problems.

2.4 The issue of logistics was held over until Agenda Item 5: SWOT Analysis.

2.3 MEETING WITH PROVINCES

2.3.1.. Marion suggested that a meeting be held with provincial governments to get them on board the constitution-making process. This would work to ensure the credibility of the constitution.

2.3.2.. Hassan suggested that provincial governments could function as agents of the constitution-making process, assisting in the process of collecting views and improving our access, for example, to rural areas.

2.3.3.. Enoch suggested that provincial MPLs might help us identify areas to approach and premiers might second staff to us to help set up meeting venues.

2.3.4.. There was general agreement on the need for such a meeting. The workshop agreed to hold over more detailed discussion of it until a later time.

4. CORE GROUPS

4.1 Thandi proposed that Core Group meetings be regularised to facilitate members' involvement and to allow for monitoring.

4.2 Theme Committees gave the following responses:

i. Theme Committee One scheduled core group meetings according to the work thrown up by the Theme Committee. It could not set regular Core Group meetings.

ii. The Theme Committee Two Core Group met each Wednesday and experienced no problems.

iii. Theme Committee Three felt that regular meetings were necessary, but would require that a proposal for alternates on the Core Group be accepted by the Constitutional Committee.

iv. The Core Group of Theme Committee Four needed great flexibility and could not have regular meetings.

v. The Core Group of Theme Committee Five met regularly every Monday after Theme Committee meetings.

vi..... The Core Group of Theme Committee Six was supposed to meet regularly on Monday, but had problems doing so.

4.3 The various concerns were noted. Hassan, however, stressed that Core Group meetings would need to be regularised once the work picked up. They would need to be institutionalised to ensure they occur. However, the Secretariat would need to remain sensitive to members' other commitments in parliament and therefore flexible.

4.4 Louisa noted that the Management Committee required that alternates formally and permanently replace members on the committee to ensure consistency.

4.5 SECTOR CONFERENCE

4.5.1 .. Edward reported that the Sector Conference had been reconceptualised: the consultative dimension was dropped and the focus instead would be on briefing and educating role players.

4.5.2 .. Marion suggested that instead of advertising submission dates, which would require lengthy decisions about ad agencies, Media should think creatively about publicising the Work Programme from 2 December. A sector conference, for example, could be held shortly afterwards. The Programme, itself, could be published as a booklet. A four page insert could be produced for national Sunday newspapers in December. The request for inputs could also be made through letters and phone calls to role players. Enoch suggested that he and Edward meet to forward a proposal on a sector conference next week.

4.6 ORAL SUBMISSIONS AND PUBLIC HEARINGS

4.6.1 .. Marion noted that oral submissions were quite distinct from public hearings. Oral submissions were initiated by the public, with individuals or organisations requesting to make oral submissions to Theme Committees. Theme Committee's would listen to and transcribe these. After transcription, such submissions could be dealt with like any other document. Hearings, on the other hand, would be initiated by Theme Committees. They could be used to stimulate discussion, particularly where clarity is needed, or to facilitate processing. The Theme Committee would have to provide a transcription and/or record of discussions in hearings.

4.6.2 .. Nonkosi noted that she raised the issue to clarify what tasks needed to be done to help define time schedules. This still needed discussion. It was noted, however, that such detailed work lay outside the task of the workshop.

4.6.3..The workshop debated whether Theme Committee members could be neutral in public hearings. The Chair noted that the topic was still under discussion and needed clarification.

4.6.4..The workshop adjourned for tea between 10h00 and 10h15.

5. VALUE SCAN

5.1 Stoncey replaced Edward as chair.

5.2 Lucille explained the significance and methods of doing value scans, mission statements, and SWOT analyses.

5.3A brainstorm was held to identify what values underly what we do. The workshop listed the following:

Inclusivity	Respect
Everyone to be a winner	Non-hierarchical approach
Accountability	Non-ageism
Professionalism	Empathy
Democracy	Hard Work
Collectivism	Co-operation
Transparency	Nonpartisanship
Openness	Sensitivity
Objectivity	People centred
Creativity	Positive Reinforcement
Public Consciousness	Passing on Info/
Efficiency	Skills

Vision
Creation of a Culture of Inquiry
Trust
Team Spirit
Responsibility
Flexibility
Tolerance
Non-sexism

Personal Growth/
Fulfillment
Participation in
Decision Making
Empowerment
High Standards

4. MISSION STATEMENT

4.1 Lucille explained that a mission statement deals with four things:

- i. What function does an organisation serve?
- ii. For whom does the organisation serve this function?
- iii. How does the organisation go about fulfilling this function? and
- iv. Why does the organisation exist (what broad social need does it serve?)

4.2 The workshop broke into small groups to draw up separate mission statements. They reported back the following draft statements:

4.2.1..We the administration of the Constitutional Assembly seek to facilitate drafting of a new constitutional text.

4.2.2..We seek to serve the South African society by providing assistance (administrative and otherwise) to the Constitutional Assembly. This process will usher in a new South Africa based on human rights.

4.2.3..To facilitate the drafting of a final constitution in such a way that all present and future South Africans recognise and owe allegiance to the Final Constitution.

4.2.4..This administration has been set up to facilitate the constitution-making process. We serve the democratically elected Constitutional Assembly and South Africa as a whole. We fulfill our function by providing secretarial, research, legal, media and community liaison services. Our objective is to produce a credible constitution by May 1996, thereby deepening the process of democracy and transformation in our country. In fulfilling our function we are guided by the following values:...

4.2.5..To provide administrative support for the constitution making process by

- (a)... Providing administrative support to the CA and its structures
- (b)... To ensure a smooth as possible process within a reasonable time frame
- (2)... Ensure legitimacy of the new constitution by facilitating maximum public participation in the process.

4.2.6..The CA Administration facilitates, supports and manages the work of the elected representatives of the people in the constitution-making process. These tasks are performed for the broader South African community. We fulfill these functions by rendering secretarial, research, information, legal, media, and community liaison services. Lastly, we exist for the purpose of constructively facilitating the democratic transformation of society.

4.2.7 ..(1) .To facilitate the process of drawing up a constitution for South Africa.

- (2)... The organisation serves the functions of facilitating the work of the body (i.e. CA) mandated to draw up the constitution.
- (3)... By setting up the relevant administrative and organisational structures necessary to implement the goals and objectives of the constitution-making process.
- (4)... To ensure that the constitution-making process is a truly democratic one and that the needs and concerns of all South Africans are addressed in the final constitution.

4.3 The workshop agreed that a group would need to be assigned the task of consolidating these statements into a single mission. This would be discussed in Agenda Item 9: Way Forward.

5. SWOT ANALYSIS

Lucille explained the SWOT analysis. The workshop broke into four groups to complete the task.

6. REPORT BACKS

The groups reported back as follows:

Group 1:

Strengths.Weaknesses

Commitment..... Lack of internal co-ordination
Credibility Communication
Spirit and humour . Domineering personalities
Communication . Lack of electronic resources
Domineering personalities Orientation of new staff
Representative... Space
Similar backgroundsLack of media exposure
Excitement and.. Staff development re.
Originality of Process....Constitution
Some efficiency . Too many meetings
Balance between How to balance democracy
admin and political, and efficiency
boundaries..... Unrealistic deadlines
Self growth Accessibility
. Environmental awareness
. Political naivete
. No guidelines

Opportunities Threats

Public participation Deadlines
Local Gov't elections Local Gov't elections
Historical moment . Lack of media exposure
International profileLack of public participation
Access to financial Overprofessionalism
resources Public apathy
Improve participation Illiteracy, poverty
of CA members. Inaccessibility
Create user-friendly SACS

constitution Rejection of constitution
Media-publicity... Members need capacity building
. to be fully informed and to
. enable them to participate
. effectively

Group 2:

Strengths.....Weaknesses

Commitment..... Us-them syndrome
Team work..... Limited capacity relative to
Diverse experience task
Accessibility (ease ofPersonality Problems (workplace
access to us) politics)
. Lack of on-going co-ordination
. No receptionist
. Under-utilisation of skills
. (secretaries)
. Lack of systems
. Lack of training, e.g. public
. hearings

Opportunities.....Threats

Provincial/NGO inputs ..Limited time frame
International community..... People's perceptions of the
Parliamentary infra- role of administration
structure and resources Overtaken by local government
Technical experts , elections/RDP
Business opportunities .Inability to make process
re. funding people driven
. Violence - risks, internal
. community politics
. Technical experts (if not
. controlled
. MP apathy
. Constitution making process
. seen as secondary to the
. legislative process

Group 3:

Strengths.....Weaknesses

Representativeness, Poorly managed meetings
Individual commitment, Overloading
Accessible executive, Lack of systems and procedures
Willingness of staff, Lack of adequate forward planning
to participate in, Inadequate technical back-up
teamwork Not forward planning
Transparency,..... Easily side-tracked
Interdepartmental, Poor communication internally
co-operation and externally
Good budget,..... Poor management of human relations
Humour Egos
Loyalty to immediate
colleagues

Opportunities Threats

Local government, Culture of violence
elections, Parliament's move
Global recognition, Political intolerance
Organised civil society, Lack of awareness of CA process
Provincial legislatures ... generally
SACS Public expectations of RDP
SABC and other media, Ghost of CODESA
International interest, Cynicism
and goodwill Lack of party preparations
. Time frames

7. CONTINGENCY PLANS

Thandi explained that contingency plans are alternate plans put in place for unexpected eventualities. Theme Committees need to draw these up when planning work. She added that there needed to be strict and regular reporting to pick up problems before they became crises. Also, Theme Committees needed to be prepared practically and mentally to change plans if things didn't go as they expected.

8. ACTION PLANS UTILISING WEAKNESSES AND THREATS

8.1 Marion presented a list of ten issues emerging from the SWOT analyses. The workshop added four additional items for discussion here: Technical Assistance, Sub-Committees, Core Groups and Oral Submissions.

8.2 The workshop considered what action plans could be implemented to begin solving problems. A summary of the discussion follows:

- i. **Systems and procedures:** Each department should draw up procedures which are suitable to it and should inform other departments of these. This would alleviate conflicts between departments and minimise overlaps. Departments could draft procedures and forward them to the Heads of Departments meetings. The workshop also agreed that a booklet describing the different departments and outlining their procedures should be produced for new staff members. The Standing Rules also should be revised to service the process which is in existence.
- ii. **Time:** Better planning would be critical for coping with existing deadlines. Management would need to plan in detail what staff and equipment would be needed to meet the deadlines. Forward planning is needed here also. Finally, regular monitoring of progress would help identify problems earlier. Lucille proposed that Theme Committees evaluate their progress after completing the first block of work in late January or early February.
- iii. **Communication:** Many communication problems would be solved if problems with systems/procedures and time were solved. Staff meetings could be utilised to inform staff members about departmental work. Advance training would be needed for innovations like E-Mail. Informal communication needs to be improved. Finally, the CA must support the emergence of honest, candid communication.
- iv. **Information:** The CA needs to manage information so that it is not passing cartons of paper around. A notice board with summaries of events and dates would help. A system of managing and cataloguing documents is needed. Language should be considered in packaging information. Finally, political parties need to address the question of their members' awareness.
- v. **Staff shortages and technical back-up:** The workshop suggested the hiring of a messenger who can drive. The Secretariat needs to look at its needs in far greater detail and put detailed proposals forward, including job descriptions. A new staff member could be used by more than one department. The workshop was reminded that the process of advertising posts slowed the process of hiring

down considerably.

- vi. **Public participation:** To ensure maximum public participation, publicity would have to occur well in advance beginning with the Work Programme. This would allow NGOs and other role players time to prepare. Also, Theme Committees should be honest and flexible, to enable them to assess whether they were reaching a wide enough audience and to shift plans if they were not. Stoncey suggested that a workshop should be given beforehand to sensitise facilitators of public hearings; Media should undertake surveys on information needs. Finally, universities and other institutions should be involved to broaden our access to the public.
- vii. **Non-participation of CA members:** This could be touched on in the meeting of Core Group chairpersons on the management of Theme Committees. Theme Committees should be pro-active, creative and address the issue of absenteeism. The restructuring of Theme Committee 6 and the creation of new sub-Theme Committees may draw in more participants from the CA. Political parties may revisit the question of who is allocated to specific Theme Committees.
- viii.**Management and co-ordination:** Proper systems and procedures for communication could be drawn up. When problems emerge, people should start at the core, discussing the problem openly with those concerned. Support systems could be strengthened and team spirit strengthened.
- ix. **Technical experts:** Louisa is working on this report.

8.4 There was general agreement that departments would discuss and attempt to implement suggestions made.

9. WAY FORWARD

- 9.1 Marion outlined what still needs to be done to prepare the Work Programme report for the Management Committee. The structure of the report was approved by the Constitutional Committee. All outstanding reports would be due in at 10:00 on Wednesday, 23 November. The report would include:
 - 1. Resolutions of the Constitutional Assembly
 - 2. Theme Committee Reports: Theme Committees were reminded to put these into a uniform format.
 - 3. Outstanding Issues: the Law Advisors would work on this with the Research Department.
 - 4. Recommended Work Programme: Hassen would complete this.

4.1 Theme Committee Technical Committees and Sub-Committees

5. Implications of the Work Programmes

5.1 Report on Time Frames, with deadlines and calendar

5.2 Schedule of meetings for Administration

5.3 Technical Assistance

5.4 Community Liaison Report

5.5 Media Liaison Report

5.6 Research Department Report

5.7 Legal Advisors Report

5.8 Secretariat Support for Theme Committees

9.2 There was general agreement that minutes would be circulated with a follow-up sheet for departments. General implementation of recommendations made would be at a department level.

9.3 Marion asked for volunteers for the planning team, which organises and plans workshops.

10. EVALUATION

10.1 STRUCTURE

Participants noted that the exercises were quite useful, but strategic planning should not be mixed with day to day issues.

10.2 TIME

More time was needed to deal fully with the strategic issues raised on Day 2.

10.3 . OBJECTIVES

The meeting did not deal enough with strategy. The planning committee, however, did a good job, and overall the objectives were reached and items would be carried over to the planning committee.

10.4 . FACILITATION

The facilitation was good and peoples' views were canvassed. It was an inclusive process. The session on the Work Programme could have been better structured, but otherwise the sessions were good.

10.5 . PARTICIPATION

Participation was good and sustained throughout. Individuals should speak more to the point, and participants should be more structured, focused, and disciplined about inputs. Sometimes it was not clear who was being asked to comment.

11. CLOSURE

Louisa thanked all participants. The workshop closed at 16h15.