

CONSTITUTIONAL ASSEMBLY

MINUTES OF THE EIGHTH MEETING OF THE CONSTITUTIONAL COMMITTEE

MONDAY 7 NOVEMBER 1994

Present

Ramaphosa, M C (Chairperson)

Ackermann, C	Malatsi, D M (Alt)
Asmal, K	Marais, P G (Alt)
Bhabha, M	Mchunu, E S
Camerer, S (Alt)	Meshoe, K R
Chabane, O C	Meyer, R P
De Lille, P (Alt)	Moosa, M V
De Beer, S J (Alt)	Mtshali, L P H M
De Lange, J H	Mulder, C P
Du Toit, D C	Myakayaka-Manzini, Y L
Eglin, C	Ngcuka, B T
Felgate, W S	Ngwane, L B
Fourie, A	Omar, D
Ginwala, F N	Pahad, E G
Gordhan, P J	Rabie, J A
Green, L M (Alt)	Rabinowitz, R
Kgoali, J L	Ripinga, S S
Kgositsile, B	Sifora, R K
King, T J	Sizani, R K
Kota, Z A	Smith, P F
Lockey, D	Van Deventer, F J
Mabandla, B S	Van Heerden, F J
Mahlangu, N J	Viljoen, C L

Apologies were received from:

G J Fraser-Moleketi, M G Ligege, B E Nzimande, A van Breda and L Wessels.

1. OPENING

- 1.1 Mr. Ramaphosa opened the meeting at 14h22.
- 1.2 The meeting offered its condolences to Mr. van Breda and his family for the loss of Mr. van Breda's brother.
- 1.3 The meeting adopted the agenda with one addition: 9.1 Alternates for the Management Committee.

2. MINUTES

Minutes of the Sixth Meeting of the Constitutional Committee held on 24 October 1994 were adopted with the following amendments:

- i. The following sentence would be deleted from paragraph 6.2.3: "However, exceptions would be made in the case of specialised input"; and
- ii. The last sentence of paragraph 8.1.1 would be replaced with: "Mr. Meyer indicated that certain clauses of the Volkstaat Bill had been deleted to accomodate concerns raised in the Management Committee."

3. MATTERS ARISING

Matters arising were included in agenda items below.

4. THEME COMMITTEES: REPORT

- 4.1 Mr. Ramaphosa introduced the document, "*Theme Committees: Secretariat Report*," included in the documentation.
- 4.2 Mr. de Lange noted that the last sentence of paragraph 6 of the report was incorrect: Theme Committee Five is discussing but has not finally decided upon hearings with Traditional Leaders.
- 4.3 Although various concerns were expressed about Theme Committee work, the meeting agreed that it would not deal with these in a piece meal fashion. Rather, it would wait to consider the Directorate's report on Theme Committee Work Programmes as a whole.
- 4.4 The meeting agreed that the Management Committee and the Constitutional Committee would meet in the first week of December to consider the Work Programme. The Management Committee would propose a time and date to the Constitutional Committee.

(Constitutional Committee - 7 November 1994)

5. Subcommittee to Select an Independent Panel: Report

- 5.1 Mr. Felgate spoke to the document, "*Report of the Subcommittee to Select the Independent Panel of Constitutional Experts*," tabled at the meeting.
- 5.2 Strong concern was expressed that the shortlist contained only one woman and that many other women had been excluded. The meeting agreed that the Subcommittee could receive further nominations of women up to the time of its next meeting at 08h00 on Tuesday, 8 November, after which nominations would be closed. The Subcommittee would consider the names forwarded for inclusion on the shortlist.
- 5.3 The meeting agreed that the Subcommittee's mandate could be extended to allow it to continue meeting. The Subcommittee would report to the Management Committee on Thursday, 10 November 1994 and to the Constitutional Committee on Monday, 14 November 1994.
- 5.4 The meeting agreed that the Directorate would convene the Constitutional Committee on Monday, 14 November 1994 to enable it to consider and/or adopt the Subcommittee's report before the Constitutional Assembly on the same day.
- 5.5 Mr. Felgate informed the meeting that the Subcommittee might propose to the Constitutional Committee that the Independent Panel be expanded to 7. This would require an amendment to the Constitution. If necessary, the proposal would be dealt with at the 14 November 1994 meeting of the Constitutional Committee, and if approved, would be forwarded the meeting of the Constitutional Assembly on the same day.
- 5.6 It is noted that Mr. van Heerden requested CVs of all nominees on the short-list.

6. CONSTITUTIONAL ASSEMBLY REPORT

- 6.1 Mr. Ramaphosa introduced the document, "*Debate in the Constitutional Assembly*," included in the documentation.
- 6.2 Mr. Ramaphosa noted that the IFP requested that the issue of International Mediation be placed on the Management Committee Agenda.
 - 6.2.1 Mr. Pahad requested that the Management Committee take into (**Constitutiona**

account in its discussion the serious concerns raised at the Constitutional Committee regarding:
 - i. The nature of the issue;
 - ii. Whether in terms of the Constitution the Constitutional

Assembly could entertain such a proposal; and

- iii. Unnecessary delays it may cause in the constitution making process.

6.2.2 The meeting agreed that after consideration by the Management Committee, the issue of international mediation would be placed before the Constitutional Committee.

6.2.3 The IFP agreed to prepare a briefing document which the Directorate could circulate to Constitutional Committee members on Wednesday, 9 November.

6.3 It is noted that paragraph 13 of the report would be rephrased to more accurately describe what the different parties said.

7. LIAISON WITH STATUTORY BODIES

7.1 COMMISSION ON PROVINCIAL GOVERNMENT

Mr. Ramaphosa introduced the document, "*Liaison with Statutory Bodies*," included in the documentation.

7.2 VOLKSTAAT COUNCIL

The Constitutional Committee endorsed the recommendation of the Management Committee that ongoing liaison take place between the Chairperson and Deputy Chairperson of the Constitutional Assembly and the Chairperson of the Volkstaat Council.

7.3 PREMIERS AND PROVINCIAL LEGISLATURES

The meeting instructed the Management Committee to determine appropriate mechanisms for ensuring the participation of provincial structures of government in the process of constitution-making and to report to the Constitutional Committee.

8. 1995/96 BUDGET

8.1 Mr. Ebrahim spoke to the document, "*1995/96 Budget*," included in (*Constitutional Committee - 7 November 1994*)

the documentation. He noted that in response to requests from the Management Committee and the Constitutional Committee, the Directors had met with the Chairpersons of the Constitutional Assembly to identify ways of reducing the budget. The item for a "Toll-free line" had been deleted, removing R4 million from the budget, and other line items and been removed or reduced leading to a total savings of about R7 million. As he spoke, the Budget was being considered by the Department of State Expenditure.

8.2 The meeting agreed that the Directorate would produce a memorandum setting out in lay terms the different sectors of the 1995/96 Budget.

9. ANY OTHER BUSINESS

9.1 ALTERNATES FOR THE MANAGEMENT COMMITTEE

Mr. Ebrahim reported that legal opinion on the matter was being drafted and would be circulated to the next Management Committee and to the Constitutional Committee if necessary.

9.2 CONSTITUTIONAL ASSEMBLY AGENDA

9.2.1 The meeting agreed that the Constitutional Assembly would be asked to provide a mandate to the Constitutional Committee to confirm Theme Committee Work Programmes.

9.2.2 The meeting agreed that the Constitutional Assembly would be requested to grant the necessary authority to the Constitutional Committee to establish commissions as agreed upon.

9.3 MANAGEMENT COMMITTEE MINUTES

The meeting agreed that Agendas and Minutes of the Management Committee would be circulated to members of the Constitutional Committee.

9.4 RULES COMMITTEE

The meeting agreed that the Directorate would reschedule the Rules Committee meeting.

10. CLOSURE

The meeting closed at 14h07.