

CONSTITUTIONAL ASSEMBLY
MINUTES OF THE
CONSTITUTIONAL COMMITTEE
THURSDAY, 10 OCTOBER 1996

Present

Ramaphosa, M C (Chairperson)
Wessels, L (Deputy Chairperson)

Ackermann, C	Alant, T G
Bhabha, M	Camerer, S
Chabane, C	De Beer, S J (Alt)
De Lange, J H	Du Toit, D C
Eglin, C W	Ginwala, F
Gordhan, P J	Graaff, D (Alt)
Green, L M	Groenewald, P J (Alt)
Hofmeyr, W	Holomisa, S P
King, T J	Koornhof, G W
Ligege, M G	Love, J
Mahlangu, M J	Mahlangu, N J
Malatsi, D M	Malebo, S M A (Alt)
Marais, P G	Maree, J W (Alt)
Meyer, R P	Moosa M V
Mulder, C P	Mulder, P
Myakayaka-Manzini, Y L	Ndzimande, B E
Ngcuka, B T	Pandor, G N M
Rabie J A	Radue, R (Alt)
Schreiner, J (Alt)	Selfe, J (Alt)
Van Breda, A	Verwoerd, M (Alt)
Viljoen, C L	Watson, A

In attendance: Directorate: H Ebrahim, **Minutes:** K McKenzie, **Panel of Experts:** G Erasmus, C Murray, P Sedibe-Ncholo, J Van Der Westhuizen and Z Yacoob.

1. OPENING

Mr Ramaphosa opened the meeting at 19:30.

2. AMENDED FORMULATIONS

Amended formulations as contained in the document entitled "Index of amendments to the text" were agreed to as follows:

2.1 Proposed amendment to section 23(5) and (6)

The amendment was agreed to. It was noted that the origin of this amendment was in the legal opinion of Adv W Trengove.

Mr Eglin said that the DP did not support this amendment.

2.2 Proposed amendment to section 45(2)

The amendment was agreed to.

2.3 Proposed amendment to sections 59, 72 and 118

The amendment was agreed to as follows:

"(2) The National Assembly/NCOP/Provincial Legislature may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society."

2.4 Proposed amendment to section 65(2)

The amendment was agreed to.

2.5 Proposed amendment to 21(5) of Schedule 6

The amendment was agreed to.

2.6 Proposed amendment to section 74

The amendment was agreed to.

2.7 Proposed amendment to sections 101 and 140

The amendment was agreed to.

2.8 Proposed amendment to section 146(6)(a)

The amendment was agreed to.

2.9 Proposed amendment to section 155

The amendment was agreed to.

2.10 Proposed amendment to section 197(4)

The amendment was agreed to as follows:

"Within a framework of uniform norms and standards applying to the public service, provincial governments are responsible for the recruitment, appointment, promotion, transfer and dismissal of members of the public service in their administrations."

2.11 Proposed amendment to section 197(4)(d)

An amendment was agreed to as follows:

"To give directions aimed at ensuring that personnel practices relating to recruitment, transfers, promotions and dismissals comply with the values and principles set out in section 195."

2.12 Proposal regarding commencement (section 243)

The proposal regarding commencement was agreed to.

It was agreed that the date of commencement should be no later than 1 July 1997.

Subsection (5) was agreed to as follows:

"Sections 213, 214, 215, 216, 218, 226, 227, 228, 229 and 230 come into effect on 1 January 1998, but this does not preclude the enactment in terms of this Constitution of legislation envisaged in any of these provisions before that date. Until that date any corresponding and incidental provisions of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), remain in force."

2.13 Proposed amendment to 22 of Schedule 6

The amendment was agreed to.

2.14 Proposed amendment to 26(1) of Schedule 6

An amendment was agreed to as follows:

"Notwithstanding the provisions of sections 151, 155, 156 and 157 of the new Constitution -

- (1) (a) the provisions of the Local Government Transition Act, 1993 (Act 209 of 1993), as amended from time to time by national legislation consistent with the new Constitution remain in force until 30 April 1999, or until repealed, whichever is the sooner; and

- (b) a traditional leader of a community observing a system of indigenous law and residing on land within the area of a transitional local council, transitional rural council or transitional representative council, referred to in the Local Government Transition Act, 1993, and who has been identified as set out in section 182 of the previous Constitution, is ex officio entitled to be a member of that council, until 30 April 1999 or until an Act of Parliament provides otherwise.

Dr Ndzimande of the ANC said that this amendment indicated the serious attempt made by the ANC to accommodate the IFP in finalising the Constitution.

2.15 Proposed amendment to 3, annexure D of Schedule 6

The amendment was agreed to.

Mr Koornhof of the NP opposed the amendment as it would have considerable financial implications for the SANDF.

Gen Viljoen of the FF supported the amendment and suggested that the word "adoption" be replaced with "certification" to ensure inclusivity.

3. CLOSURE

The meeting closed at 21:25.