

CONSTITUTIONAL ASSEMBLY

MINUTES OF FOURTH CONSTITUTIONAL COMMITTEE MEETING MONDAY 12 SEPTEMBER 1994

PRESENT

Ramaphosa MC (Chairperson)

| | |
|------------------|---------------------------------|
| Ackerman C | Meshoe KR |
| Asmal K | Ngcuka BT |
| Bhabha M | Ngwane LB |
| Chabane OC | Nzimande BE |
| De Beer SJ (alt) | Pahad EG |
| De Lange JH | Ripinga SS |
| De Lille P (alt) | Selfe J (alt) |
| Felgate WS | Sizani RK |
| Fourie A | Smith PF |
| Gordhan PJ | Van Breda A |
| Holomisa SP | Van Deventer FJ |
| Kgoali JL | Van Heerden FJ (alt) |
| Kgositsile B | Viiljoen CL |
| King TJ | Wessels L (Deputy Chairperson) |
| Kota Z | Gogotya NJ |
| Ligege MG | Skweyiya Z (alt) |
| Lockey D | Camerer S (alt) |
| Mabandla BS | |
| Lekgoro MK | |

The amended agenda was adopted.

1. MINUTES

The minutes of the previous meeting on 29 August 1994 were adopted.

2. MATTERS ARISING

In response to a proposal by Mr Asmal some discussion took place on the form of minutes for meetings. Mr Asmal stated that the minutes, whilst a correct reflection of the proceedings of the meeting, should reflect decisions only and that individual views be stated only when specifically requested to do so. An opposing view stated that "long minutes" with a full record of discussion were important.

It was agreed the Administration would seek the best method to minute meetings, noting both views expressed in the meeting.

3. MANAGEMENT COMMITTEE REPORT

3 a) Press Statement

A press statement issued by the Chairperson on 11 September 1994 was contained in the documentation for the meeting. The statement contained the resolutions of the Constitutional Assembly and called upon members of the public and interested parties to submit ideas on the best mechanism of involving the public in the process of constitution-making.

The meeting noted the statement.

Some concern was expressed that the closing date for submissions, 16 September 1994, did not allow enough time for submissions to be made.

It was agreed the Administration would be flexible about the closing date.

3 b) Work Programme

A work programme for the Constitutional Assembly and its structures was contained in the documentation for the meeting, setting out dates and times for various meetings. This programme had been referred to the Constitutional Committee by the Management Committee for its consideration.

Some concern was expressed that the meetings of the Theme Committees on 129 September 1994 should take place in the afternoon instead of in the morning.

Another concern was expressed that Theme Committees should not meet simultaneously as this disadvantaged smaller parties.

It was agreed the Constitutional Assembly would not convene on 19 September 1994. It was further agreed the Administration would seek to convene Theme Committees in the afternoon, after due consideration of available venues. It was also agreed the Administration would give due consideration to the concern of smaller parties of meetings running concurrently.

3 c) Structure of Debate in the Constitutional Assembly

A proposal by the Administration allowing for a period of informal debate and questioning in the Constitutional Assembly was circulated in the

documentation for the meeting. This proposal was forwarded by the Management Committee to the Constitutional Committee for its consideration.

Two options were outlined in the proposal. The first option allowed for inputs of 90 seconds per speaker with the total allocation to parties based on representation in the house. The second option made no limit for individual contributions but still made total time allocations to parties based on their representation in the house.

Some concern was expressed that the proposal was still too "structured " and that the intention of the original proposal had been merely to allow for an "open period" in the debate in the Constitutional Assembly.

The second option outlined in the proposal was accepted by the Constitutional Committee with the understanding that changes would be made as and when required.

4. THEME COMMITTEES

a) Nominations to Theme Committees

Mr Ebrahim reported that the ANC and DP had not yet submitted nominations for Theme Committees.

The meeting noted that both parties would submit nominations forthwith.

b) Agenda and Documentation for Theme Committees

A draft agenda for Theme Committees on 19 September 1994 was circulated in the documentation for the meeting. This agenda was forwarded by the Management Committee.

Some concern was expressed that various Theme Committees would adopt different approaches to matters such as Technical Committees etc Another concern was expressed that parties may delay the process by failing to make submissions in time with regard to involving the broader public in the process.

It was agreed that Theme Committees would appoint core groups first and then elect chairpersons. The agenda, as amended, was adopted. It was further agreed that the Management Committee would give due consideration to the need for procedural guidelines for Theme Committees and that Theme Committees would continue with work and not be held up by parties who failed to make submissions as per agreed deadlines.

4 c) Appointment of Technical Committees

Mr Ebrahim explained that no decision was required on this matter. It had been placed on the agenda for the meeting to stimulate discussion on the matter. He further explained that the Management Committee had agreed that no appointments should be made as yet and that Theme Committees should first be afforded the opportunity to discuss their programme of work.

This was noted.

4 d) Chairing and Management of Core Groups

The Chairperson explained that this matter had been put to the house for its consideration in the light of earlier proposals about rotating chairpersonship of Theme Committees.

The meeting agreed that the core group of Theme Committees would consist of 7 persons constituted as follows : ANC (2), NP (1), DP (1), PAC (1), IFP (1), FF (1). It was further agreed that each core group would nominate from its members 2 or 3 chairpersons who would function on a rotational basis.

Some concern was expressed about the absence of the ACDP in the core groups.

It was agreed that individual Theme Committees would consider how to accommodate the ACDP.

It was further noted that the agreement of the meeting would result in a change to the Standing Rules. The Legal Adviser was instructed to consider an appropriate reformulation of the rules to be submitted to the next meeting of the committee.

It was further noted that the chairpersonship of Theme Committees were not remunerated positions.

4 e) Representation of smaller parties in Theme Committees

A proposal by the FF was circulated in the documentation for the meeting. This proposal suggested that smaller parties be allowed to use members outside the Assembly to represent their parties' views in Theme Committees.

Some concern was expressed that this would not only mean a change in the Standing Rules but would also be unconstitutional as it was an inherent part of the process that elected representatives be members of Theme Committees.

The meeting noted the concern of the smaller parties and referred the matter to the Management Committee and instructed the Legal Adviser to formulate proposals in this regard.

5. CONSIDERATION OF PROCESS

5 a) Briefing Document on Theme Committees

A briefing document on the role and function of Theme Committees was contained in the documentation for the meeting. This draft was considered by the Management Committee and referred to the Constitutional Committee for its consideration.

Some discussion took place with strong disagreement on whether Theme Committees should attempt to reach consensus or not.

One view stated that Theme Committees should receive reports and submissions, process these and report back to the Constitutional Committee indicating which views enjoyed majority support and which did not. Minority views should also receive full attention and be reflected in these reports.

Another view stated that it was not the business of Theme Committees to recommend any particular view to the Constitutional Committee. This view was of the opinion that Theme Committees should simply receive submissions, consider matters and process and synthesise these and submit options to the Constitutional Committee without recommending a particular option.

Some concern was also expressed about whether Theme Committees should be involved in the drafting of new constitutional text. It was felt that the Constitutional Committee should consider what text be drafted. It was further stated that Technical Committees should not supervise the process of drafting and that the role of Technical Committees be revised.

Mr Felgate moved several amendments.

It was agreed these would be submitted in writing for later consideration.

The various viewpoints expressed were noted and it was agreed this matter would be referred to another meeting of the Constitutional Committee. It was agreed the document should be circulated to the Theme Committees as a working draft on the understanding that the Constitutional Committee would still need to finalise matters as per the discussion above.

5 b) IFP Proposals

A proposal from the IFP on suggested amendments to the Standing Rules were circulated in the documentation for the meeting. In terms of these proposals it is suggested that minority views and proposals to the Constitutional Assembly should be given full consideration and receive the same technical competence as majority views. It is also suggested that Standing Rules once adopted should only be amended with a 3/4's majority of the Assembly.

The proposals were noted and referred to a later discussion.

6. DISCUSSION ON INDEPENDENT PANEL OF EXPERTS, CLOSING DATE AND APPOINTMENTS

It was noted that the closing date, as originally agreed, for submissions, had passed.

It was agreed this matter would stand over for another meeting.. The Constitutional Committee would decide at another meeting whether to extend the closing date for submissions.

7. DIRECTORATE REPORT

A report from the Directorate on the staffing, premises etc of the administration was circulated in the documentation for the meeting.

The report was noted.

The meeting rose at 15h40.