

**CONSTITUTIONAL ASSEMBLY
THEME COMMITTEE ONE
CHARACTER OF THE DEMOCRATIC STATE**

**MINUTES OF THE MEETING OF THEME COMMITTEE 1
MONDAY 26 JUNE 1995 09H00 ROOM M515**

**Present
Marais PG (Chairperson)**

**Booi MS
Chiba L
Chiwayo LLL
Goosen AD
Gumede DM
Janse Van Rensburg AP
Kuzwayo NEK
Lekgoro MK
Mabuza MC
Mahlangu NJ
Majola-Pikoli NT
Marais A
Meshoe KR
Momberg JH**

**Moorcroft EK
Mukhuba TT
Ncube BS
Niehaus CG
Nobunga BJ
Nzimande BE
Ripinga SS
Sisulu AN
Streicher DM
Van Zyl ID
Vilakazi BH
Williams AJ**

Apologies:

**Kekana NN
Macozoma NJ
Schoeman EA
Shope G
Van Deventer FJ**

Technical Experts present:

**Corder H
Heunis JC
Husain Z**

Leola Rammble and Susan Rabinowitz were in attendance.

1. OPENING

1.1 The meeting was opened by the Chairperson at 09h10.

2. ADOPTION OF PREVIOUS MINUTES

- 2.1 The Minutes of the Theme Committee meeting held on Monday 12 June 1995 contained in Document A28 [Pages 3 - 9] were adopted.

3. MATTERS ARISING

3.1 Report on Block 5: The Economy

The Chairperson referred to Point C VI on Page 5 of the Minutes where it had been agreed that this issue was Non-Contentious and to the Report on Block 5 on Page 16 Item B (VI) under Non-Contentious Issues. He reported that at the Constitutional Committee meeting on Friday 23 June 1995, it was agreed that this issue should be moved from Non-Contentious Issues and placed under Contentious Issues in the Report.

4. DISCUSSION OF DRAFT REPORT FOR BLOCK 6: REPRESENTATIVE GOVERNMENT [See Extra Documentation A28]

- 4.1 The Draft Report for Block 6 dealing with Representative Government [Extra Documentation A28 Pages 1 - 12] was tabled. Mr Husain spoke to the document and asked members to note that:

4.1.1 Page 1 Point 1 - Volume 21 would be inserted and the summary overview would be attached.

4.1.2 Page 1 Point 2 - the date of the orientation workshop would be inserted and the briefing document attached.

- 4.2 After discussion it was agreed that the following amendments should be made:

4.2.1 Page 3, Point 2.4 - the word "constitutional" should be replaced by "constituency"

4.2.2 Page 3, Point 2.5 - the words "public officials" should be replaced with the words "elected political representatives".

4.2.3 Page 7, Point 1.3 - the word "say" should be amended to read "stay"

4.2.4 Page 8, Point 2.4 - the last sentence reading "In its oral submission16 years" should be deleted.

4.2.5 Page 8/9, Point 3.4 - the second sentence should be amended to read as follows "It supports the grounds for disqualification contained in present electoral legislation (Section 16 of Electoral Act No.202 of 1993), save for

paragraph (d) thereof, in that the NP proposes disqualifying a person who is in prison, having been convicted and sentenced without the option of a fine in respect of offenses such as murder, robbery with aggravating circumstances and rape, or any attempt to commit such an offence."

4.3 After further discussion of the qualifications under Non-Contentious Issues on Page 3, Point 2, it was agreed that items 2.1 - 2.6 should be categorised as follows :

2.1 This was a contentious issue.

2.2 This was a contentious issue.

2.3 This was a contentious issue.

2.4 This was a non-contentious issue.

2.5 This matter was contentious.

2.6 This matter was non-contentious with the qualification that this was in the spirit of Section 16 of the Interim Constitution.

4.4 It was agreed that, in the light of the discussions, the Report should be referred back to the Drafting Sub-Committee and the Technical Experts for redrafting and then re-submitted to the Theme Committee for further consideration. The Secretary was requested to arrange a meeting of the Drafting Sub-Committee and the Technical Experts during the course of this week.

5. TABLING AND DISCUSSION OF SUBMISSION FOR BLOCK 8: FOREIGN RELATIONS AND INTERNATIONAL LAW

5.1 ACDP

The ACDP tabled and talked to its submission contained in Extra Documentation A28 [Pages 13-16] and clarified the following:

- Page 15, 4th paragraph, third sentence - the word "republic" should read "public" and in the last sentence, the word "Spirit" should be "spirit";
- Page 15, 5th paragraph, last sentence reading "This is a necessity...in all law" should be deleted.

Questions of clarification were asked on whether the ACDP were religious

fundamentalists, on the mechanisms for including citizens in decision-making and on what is meant by "foreign world". On the question of amending the Constitution in line with developments in international law, the ACDP did not envisage a problem if the amendment was in the interests of the country. On the question of secularism, the ACDP referred members to their submissions on the matter.

5.2 **ANC**

The ANC tabled its submission contained in a separate document and talked to the submission.

Clarification was given on what was meant by "national legislation" on Page 1, Point 3.

5.3 **DP**

The DP tabled its submission contained in Extra Documentation A28 [Page 17] and spoke to the document.

Questions of clarification were asked on the issues of the Vice President and on the application of international law.

5.4 **FF**

There was no submission by the FF and no member present at the meeting.

5.5 **NP**

The NP tabled its submission contained in Extra Documentation A28 [Pages 18 - 20] and talked to the document.

Questions of clarification were asked on the issue of the Executive Deputy Presidents and whether the NP envisaged the same arrangement as that which presently exists under the Interim Constitution. On the question of the Non-Proliferation Treaty, the NP supported South Africa signing the Treaty.

5.6 **PAC**

The PAC submission contained in Extra Documentation A28 [Pages 21 - 22] was tabled. No representative of the PAC was present and there was no discussion or clarification.

5.7 It was agreed that as all the parties were not present, the matter would

stand over for further discussion until the next Theme Committee meeting and the Secretary would contact the FF to obtain their submission.

6. PUBLIC PARTICIPATION

6.1 Report back on CPMs

6.1.1 Maokeng

A member of the Theme Committee who had attended the CPM in Maokeng on 24 June reported that the meeting was well attended and the participation of the community was excellent with many interesting contributions.

6.1.2 Middleburg

A member of the Theme Committee who had attended the CPM in Middleburg on 17 June reported that the submissions which related to the work of Theme Committee One included:

- power of the provinces - the provinces should not be given more powers;
- voting age - varied views of 16 years and 18 years;
- proportional representation and a constituency system after 1999 with the majority party forming the government;
- child labour must be abolished;
- control of the police, military and parastatals;
- South Africa should be a unitary and not a federal state.

6.1.3 Pietermaritzburg

Members of the Theme Committee who had attended the CPM in Pietermaritzburg on 25 June reported that only the ANC was represented and expressed the hope that other parties would participate. Submissions made which related to the work of Theme Committee One included:

- definitely against a Volkstaat;
- separation of religion and state;
- character of the state should be unitary;
- traditional leaders should be apolitical;
- no international interference;
- official language determined at national level and others at provincial level;

- both for and against abortion
- police and security forces
- constitution should be in simple language;
- the issue of Kwazulu-Natal being a federal state should be referred to a referendum;
- one national anthem;
- majority party should form the government.

6.1.5 A general concern was expressed that very few white people attend the CPMs.

7. GENERAL

7.1 Request from Minister Chris Nissen

A request from Minister Chris Nissen for the Western Province Council of Churches to address the Theme Committee on the topic Church and State was tabled [Document A28 Pages 10-12].

The Theme Committee agreed to this request and the Secretary was requested to make the necessary arrangements.

7.2 Briefing Document for Block 9: Agenda Item 12: National Territory

A separate document entitled "Block 9: Briefing Document, Agenda Item 12: National Territory" was tabled. Dr Heunis talked to the document providing clarification on a number of issues to assist parties in preparing their submissions for this agenda item.

8. CLOSURE

8.1 The meeting rose at 11h55.

CHAIRPERSON