

**CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 1  
CHARACTER OF THE DEMOCRATIC STATE**

**MINUTES OF THE MEETING OF THEME COMMITTEE 1  
MONDAY 27 MARCH 1995 09H00 ROOM M515**

**Present  
Mahlangu N J (Chairperson)**

Chiba L	Ripinga S S
Chikane M M	Schoeman N C
Cwele C S	Seaton S
Goosen A D	Shope N R
Gumede D M	Streicher D M
Hangana N E	Van Zyl I D
Janse Van Rensburg A P	Vilakazi B H
Lekgoro M K	Williams B H
Majola-Pikoli N T	Zondi M K
Marais P G	
Mohale M	
Mokaba P	
Moorcroft E K	
Mtshali L P H M	
Ncube B S	
Nobunga B J	
Nzimande B E	

**APOLOGIES:**

**Chiwayo L L L  
Niehaus C  
Macozoma S  
Meshoe R K  
Van Deventer**

**Technical Experts Present:**

**Corder H  
Heunis JC**

**Leola Rammble and Susan Rabinowitz were in attendance.**

**1. OPENING**

The meeting was opened by the Chairperson at 09H10.

## **2. ADOPTION OF PREVIOUS MINUTES**

The minutes of the Theme Committee meeting of 20 March 1995 contained in Document A18 were adopted.

## **3. MATTERS ARISING**

None

## **4. DISCUSSION ON THE SUBMISSION TABLED BY THE ACDP**

In the absence of a member of the ACDP, there was no further discussion on their submission for Block 2.

## **5. DISCUSSION ON THE SUBMISSION TABLED BY THE IFP**

The IFP talked to its submission for Block 2 on One Sovereign State and Equality.

Clarification was requested and discussion took place on a number of issues in the submission including:

Conceptual issues of sovereignty as opposed to supremacy and on the state being equated with central government;  
the issue of the monarchy and role of the King;  
the executive powers of the King and the amakhosi;  
on the devolution of powers or division of powers.

The ANC wished it placed on record that the Constitution is to be written within the framework of the Constitutional Principles.

The Technical Experts gave a short input to the meeting on the different forms of law on the understanding that this was in no way meant to inhibit the discussion of the parties, but was in order to give clarity on what is meant by a sovereign state. They distinguished between Constitutional Law which refers to the inter-relationship between organs of state and governs the way in which the state functions, and Public International Law which refers to the relationship between states. They explained that under Public International Law the primary subjects are states and that a state must have a territory, a population and a government which exercises control over the territory and population. Sovereign means that a state is independent, not subject to another state.

## **6. FURTHER DISCUSSION ON PARTY SUBMISSIONS TABLED ON 13 MARCH**

The DP requested that the following amendments be made to their submission for Block 2 contained in Document A16:

Page 15, second last line:

Remove the words "aimed at the" and substitute the words "designed to achieve".

Page 16

Remove paragraphs 2 and 3 beginning with "Less conspicuous," and ending with "exclusion of its effects."

## **7. DISCUSSION ON REPORT FOR BLOCK 2**

It was agreed that the Secretariat would arrange a meeting this week of the Drafting Sub-Committee and the Technical Advisors to draft a report for Block 2.

## **8. ORIENTATION WORKSHOP ON BLOCK 3**

The Briefing Document from the Technical Committee on Block 3 "Supremacy of the Constitution" contained in Document A18 Pages 7-12 was tabled. Prof Corder talked to the document and highlighted important points, emphasising that this was not an attempt to prescribe to parties but merely to set out boundary guidelines, in order to attempt to focus the debate.

Clarification was given to the meeting on the questions of Parliament as law-maker, the role of the Constitutional Court and amendments to the Constitution.

## **9. DEADLINE FOR PARTY SUBMISSIONS FOR BLOCK 3**

It was agreed that the Core Group would meet to discuss this matter.

## **10. SETTING UP OF SUB-COMMITTEES**

The NP proposed that because the establishment of sub-committees would be inconvenient for the smaller parties, a Commission should be set up to deal with the Language issue and that the issues of Names, Symbols and Seats of Government should be discussed first by the Theme Committee who could then decide if Commissions should be set up to take the matter further. They further proposed that the question of National Territory was a technical matter and should be referred to the Surveyor General. The DP and the IFP supported this position.

The ANC proposed that more information should be obtained about the structures that had already been set up to deal with some of these issues, and once that had been done sub-committees could then be set up to

determine whether an issue warranted a Commission or a Sub-Committee to take the matter further.

It was agreed that as there were a number of positions on this issue the matter would be held over and discussed at a separate meeting of the Theme Committee to review which position to take.

**11. PUBLIC PARTICIPATION PROGRAMME**

It was agreed that there was nothing to report on this item.

**12. GENERAL**

The invitation to the preparatory meeting for the workshop on Traditional Leaders on Monday 27 March 1995 at 14h30 leaders was tabled.

It was agreed that Prof Corder would attend the meeting and report back to the Theme Committee.

**13. CLOSURE**

The meeting rose at 12h45.

**CHAIRPERSON**\_\_\_\_\_