

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

**MINUTES OF THE MEETING OF THEME COMMITTEE 1
MONDAY 29 MAY 1995 09H00 ROOM M515**

**Present
Marais PG (Chairperson)**

**Chiba L
Chikane MM
Chiwayo LLL
Cwele CS
Dyani MM
Fani LM
Goosen AD
Green LM
Gumede DM
Hangana NE
Janse Van Rensburg AP
Kekana NN
Kuzwayo NEK
Lekgoro MK
Majola-Pikoli NT**

**Marais A
Meshoe KR
Momberg JH
Moorcroft EK
Mulder PWA
Ncube BS
Nobunga BJ
Nzimande BE
Routledge NC
Shope G
Sisulu AN
Streicher DM
Van Zyl ID**

Apologies:

Booi MS
Mahlangu NJ
Niehaus CG
Schoeman EA
Van Deventer FJ
Williams AJ

Technical Experts present:

Corder H
Heunis JC

Leola Rammble and Susan Rabinowitz were in attendance.

1. OPENING

1.1 The meeting was opened by the Chairperson at 09h15.

2. ADOPTION OF PREVIOUS MINUTES

- 2.1 The Minutes of the Theme Committee meeting held on 22 May 1995 contained in Document A25 (Pages 2 - 6) were adopted with the amendment that Mr JH Momberg would be recorded as having submitted an apology for the meeting of 22 May.

3. MATTERS ARISING

3.1 Report for Block 3 (Point 4 on Page 3 of the Minutes of 22 May)

Prof Corder reported to the meeting that the Report for Block 3 had been tabled at the Constitutional Committee meeting on Friday 26 May 1995 and noted that the draft clause which forms part of this report is a simplified version of the present Section 4 of the Interim Constitution. He further reported that the question had been raised at the Constitutional Committee meeting as to how this clause would fit together with the opening clause of the future Bill of Rights and that when the final Constitution is drafted this clause might have to be amended so that it is not contradictory to the opening clause of the Bill of Rights.

3.2 Matters arising from Point 5.2 on Page 4 of the Minutes of 22 May

Prof Corder reported the following:

- 3.2.1 With regard to the question of payment for unpaid labour, research had drawn a blank in terms of constitutional entrenchment but that legislation exists in a few countries with regard to social welfare legislation where the spouse stays at home to raise children.
- 3.2.2 The documents dealing with Alternative Electoral Systems and Prisoners' Voting Rights were included in Document A25 (Extra Documentation - Pages 7-9).
- 3.2.3 With regard to the question of voting ages in different countries, research was not complete and the information would be provided to members with the next documentation.

4. DISCUSSION OF DRAFT REPORT FOR BLOCK 4

- 4.1 The Draft Report for Block 4 dealing with Accountable Government contained in Document A25 (Extra Documentation - Pages 1-5) was tabled.

Prof Corder talked to the Report and noted that Part One A) and B) were still to be attached to the Report. He further suggested that the Theme

Committee might consider the inclusion of accountable government in the Preamble in order to entrench this in the Constitution.

A number of concerns were raised by members of the Theme Committee, including the accountability of provinces, Non-Contentious Point iii) (Page 3) and the separation of powers. It was therefore agreed that discussion of the Draft Report for Block 4 would stand over until the next Theme Committee meeting so that parties would have the opportunity to make further submissions.

5. ORIENTATION WORKSHOP FOR BLOCK 8: FOREIGN RELATIONS AND INTERNATIONAL LAW

- 5.1 The Briefing Document for Block 8 dealing with Foreign Relations and International Law contained in Document A25 (Pages 45 - 65) was tabled. Dr Heunis talked to the document and he and Prof Corder gave clarification to a number of questions regarding international law and international agreements.

6. PUBLIC PARTICIPATION

6.1 Report back from Public Hearings held on 26 and 27 May

6.1.1 Religious Sector Hearing

A member who had attended the religious sector hearing on Friday 26 May gave a short report noting the main views emerging from the hearing were as follows:

Non-contentious issues:

- The need for a secular state that respects all religions was expressed in most of the submissions.
- The importance of the separation between religion and the state.
- Allowance for chaplaincy and religious accommodations.

Contentious issues:

- Related to civil law and traditional and personal law.
- Preamble mentioning God
- Need for a Bill of Rights to enshrine morality.

Another member who had attended the hearing reported that there was no clarity on the definition of a secular state.

Discussion took place on the issue of a secular state and the Theme Committee's Report on Block 1 where this

matter had been dealt with. It was agreed that this matter was not an item for discussion on the agenda and that the Secretariat would provide a transcription of the meeting where the issue had been discussed and would make this available to the Theme Committee members. It was further agreed that the Theme Committee would also await the decision of the Management Committee on this matter.

6.1.2 Youth Sector Hearing

Members of the Theme Committee who had attended the hearing on 27 May raised a number of concerns: that more youth organisations could have been present, that the way the agenda was structured should be examined, that more preparation needed to be done to ensure that the contributions made by the sector are meaningful for the process and that the events needed to be more focused.

They further reported that the voting age of 16 years was supported by participants at the Hearing.

6.2 CPM - Beaufort West 27 May 1995

A member of the Theme Committee who had attended the CPM in Beaufort West gave a short report, noting that despite poor attendance due to bad weather, the meeting had gone well and had the participation of General Viljoen. Questions around the issues of land and the volkstaat were raised at the meeting.

6.3 CPM's in Kwazulu Natal

The Secretary reported that two CPM's were being planned in the province, in Newcastle and Hammersdale, on 24 June and names of those members wishing to attend would be called for closer to the time.

6.4 CPM's on 3 June 1995

The Secretary reported that two CPM's would be held on 3 June, in Northern Cape (Kimberley) and Northern Transvaal (Thohoyandou). It was agreed that names of members wishing to attend should be submitted to the Secretary by 10h00 on Tuesday 30 May 1995.

7. **GENERAL**

7.1 Deadline for Party Submissions for Blocks 5 and 6

The Secretary reminded the Theme Committee that the deadline for party

submissions for Block 5 dealing with the Economy would be Wednesday 31 May. It was agreed that the deadline for Block 6 (Representative Government, Citizenship, Suffrage) would be Monday 5 June.

7.2 Public Hearing on 10 June 1995

The Secretary reported that the issue of National Territory would not be dealt with at the Public Hearing. It was agreed that further information should be obtained as to whether the Theme Committee should examine provincial boundaries under this agenda item.

The Secretary further reported that a list of speakers for the Public Hearing was in the process of being finalised and would be provided to the Theme Committee members by Wednesday 31 May.

7.3 Draft Clause on Supremacy of the Constitution (Document A25 Extra Documentation - Page 6)

The status of the Draft Clause on Supremacy of the Constitution was questioned and the Chairperson reported that this would be dealt with in context with all the other provisions.

8. CLOSURE

8.1 The meeting rose at 11h15.

CHAIRPERSON