

2/4/95/2/9

CONSTITUTIONAL ASSEMBLY

**THEME COMMITTEE 4
FUNDAMENTAL RIGHTS**

**TUESDAY
7 FEBRUARY 1995**

Room M 46

DOCUMENTATION

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CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 4 MEETING

FUNDAMENTAL RIGHTS

Please note that a meeting of the above Group will be held as indicated below :

Date : Tuesday, 7 February 1995
Time : 14h00 - 18h30
Venue : Room M 46

AGENDA

1. Opening and Apologies
2. Minutes:
 - 2.1 Theme Committee meeting 31 January 1995
 - 2.2 Theme Committee meeting 1 February 1995
3. Matters Arising: See Agenda Items Below
4. Report on Block 1 of Theme Committee: Discussion of Second Draft
5. Block 2 of Work Programme: Preliminary Discussion
6. General:
 - 6.1 UWC Gender Conference: Report back from participants
 - 6.2 Community Liaison Programme
7. Closure

****** *Members are reminded to bring copies of the Theme Committee Work Programme, the Constitution and Standing Rules for the Constitutional Assembly to the meeting.*

H Ebrahim
Executive Director
Constitutional Assembly

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- MINUTES

CONSTITUTIONAL ASSEMBLY

**MINUTES OF
MEETING OF**

**THEME COMMITTEE 4
FUNDAMENTAL RIGHTS**

TUESDAY 31 JANUARY 1995 (AT 08H30)

PRESENT

Leon AJ (Chairperson)

Asmal AK
Camerer SM
Chalmers J
Coleman M
Fenyane SLE
Gamndana T
Gasa XF (alt)
Govender D (alt)
Green LM
Lubidla EN (alt)
Mashamba TGG
Maseko J
Mbuyazi L (alt)
Mdladlana MMS
Mfayela MW (alt)

Mfebe MW
Mohamed IJ (alt)
Molekane RS
Myakayaka-Manzini YL
Njobe MA (alt)
Ntuli BM
Pandor GNM
Phenethi MM
Piliso M
Radue RJ
Rasmeni S
Rhoda RT
Selebi JS
Surty ME
Tyobeka VN (alt)

Apologies: Bakker D; Dlamini BO; Mncwango M; Myburgh GB, Sizani RK, Vos S

J Tsalamandris and Z Adams were in attendance.

1. OPENING

- 1.1 The meeting was opened by Mr Leon who called the Committee's attention to the documentation prepared by the secretariat for the meeting.

2. MINUTES

- 2.1 The minutes of the Theme Committee meeting of 25 January were accepted with one correction:

i) The Raoul Wallenberg Institute Seminar is to be held on the 4th and 5th of March and not the 3rd and 4th of March 1995.

- 2.2 The minutes of the Theme Committee meeting of 26 January were accepted without corrections.

3. MATTERS ARISING

- 3.1 There were no matters arising.

4. CORE GROUP REPORT

- 4.1 The chairperson gave a verbal report of the Core Group activities to the Committee, highlighting the general need to address issues of substance as a matter of urgency.

- 4.2 The chairperson also informed the Committee that the Core Group recommended Proposal 3 of the Work Programme proposals (included in the documentation) as the most suitable programme for the Committee.

- 4.3 The Committee agreed to accept Proposal 3 as a means for proceeding and to schedule a discussion on Block 1. It was further added that the Committee reserved the right to make changes to the Work Programme should the need arise.

- 4.4 The ACDP and the FF were asked to submit their submissions on Principle II before the Theme Committee begins to discuss Block 1.

5. SUBMISSIONS

5.1 The Committee proceeded to discuss **Constitutional Principle II** as per Block 1 of the Work Programme.

5.2 Mr Green spoke to the document entitled "**A.C.D.P. Preliminary Submission Regarding Constitutional Principle II (Fundamental Rights and Freedoms)**"

5.2.1 Points of clarity and discussion:

- i) Questions put to the ACDP revolved around the following issues:
 - the role of legislation to accommodate the moral views of one particular group.
 - the right of choice and tolerance.
 - the scope of Principle II.
 - the theological approach of the ACDP and its "Biblical View".
 - the determination of rights "ordained by God".

Mr Green responded to the questions, noting that the 1994 elections were "liberation" elections and did not give voters an opportunity to test the religious or moral views of parties. The ACDP believed that voters subscribed to Christian views and the issues needed to be opened for public debate.

With regards to human rights, the ACDP sees human rights in a biblical perspective. Mr Green said the ACDP believed that the broad scope of Principle II should be narrowed to subscribe to be based on biblical principles. The ACDP however noted that the Theme Committee was bound to Principle II of the Interim Constitution.

5.3 Mr Mulder presented an overview of the Freedom Front submission with reference to the submission entitled "**Freedom Front Theme Committee 4: Preliminary Submission On Constitutional Principle II: Fundamental Rights**"

5.4 There were no questions.

6. DISCUSSION OF BLOCK I OF WORK PROGRAMME (PROPOSAL 3)

6.1 Having agreed to the first block of the Theme Committee's Work Plan ie. the block **Constitutional Principle II**, and after having dealt with all the party submissions, the Committee dealt with clarifying phrases contained in the Principle.

6.2 ***Everyone shall enjoy ... "(Whether the term "everyone" includes juristic persons, structured and unstructured groups, and organs or civil society, etc)***

Discussion centred around clarification on whether 'everyone' includes juristic persons, structured groups and organs of civil society.

- i) The ANC interpreted "everyone" to refer to human beings only.
- ii) The DP, IFP and FF reserved their position, noting however that the Bill of Rights should apply to juristic persons as well.
- iii) The NP noted that they would like to investigate the matter further.
- iv) The ACDP said that they would like to include unborn persons under the term.

6.2.1. The Committee agreed to have further discussion on the matter.

6.3 Vertical and horizontal applicability of the Bill of Rights

- i) The ACDP, ANC, DP, IFP and PAC supported a vertical and horizontal application of the Bill of Rights.
- ii) The NP interpreted the Bill of Rights to have vertical application primarily. Noting that a horizontal application would destabilize the body of South Africa's Private Law.

6.3.1 It was agreed by all parties that the implications and consequences of horizontal application shall be examined with reference to each right. The parties also agreed to seek expert advice individually if the need arose.

6.4 ***"all universally accepted fundamental rights, freedoms and civil liberties" (which rights etc., qualify as universally accepted fundamental rights)***

Discussion centred around what 'universally accepted fundamental rights' were.

- i) The ANC felt that a definition of the above rights was guided by the UN Universal Declaration of Human Rights and other relevant international Conventions.
- ii) The NP agreed with this position, noting that expert advice on this issue was imperative. They also felt that a workshop on the issue would assist the Theme Committee in gaining clarity.

6.4.1 It was agreed that parties should make submissions on their understanding of the term 'universally accepted fundamental rights'.

6.5 ***"entrenched and justiciable provisions"***

- i) All parties agreed that the Bill of Rights should be enforced and entrenched.
- ii) The NP noted that the protection of fundamental rights can only be enforced by a strong and independent judiciary.
- iii) The FF felt that entrenchment should not be absolute but that a Bill of Rights should make provision for an extension of those rights as the concept of human rights is not static but one that develops over time.
- iv) The ANC noted that other forms of entrenching human rights should also be looked at.

6.5 ***"due consideration to inter alia the fundamental rights contained in Chapter 3"***

- i) There was agreement that "inter alia" implies that other references to human rights, outside of Chapter 3, may also be considered.
- ii) It was also noted that a Bill of Rights should not conflict with any of the rights set out in Chapter 3 but it was recognised that the parties are not limited by the rights in Chapter 3.
- iii) The ACDP reserved the right to consider a reduction of rights in Chapter 3 if they conflicted with a biblical perspective of human rights.

7. CLOSURE

7.1 A drafting sub-group containing a member from each political party was nominated to draft a report of the Theme Committee's work on Block 1 of the Work Programme.

7.2 It was agreed that paragraphs 2 and 3 of Block 1 would be discussed in the meeting of 1 February 1995.

The meeting rose at 11h10.

CONSTITUTIONAL ASSEMBLY

**MINUTES OF
MEETING OF**

**THEME COMMITTEE 4
FUNDAMENTAL RIGHTS
WEDNESDAY 1 FEBRUARY 1994 (AT 14H00)**

PRESENT

Leon AJ (Chairperson)

Bakker D
Cachalia IM (alt)
Camerer SM
Chalmers J
Coleman M
Dlamini BO
Gasa XF
Govender D
Kgoali JL
Lubidla EN (alt)
Mabandla BS
Maseko J (alt)
Mashamba TGG
Mbuyazi L (alt)
Mdladlana MMS
Mfebe MW
Mohamed IJ (alt)

Molekane RS
Mulder CP
Myakayaka-Manzini YL
Ntuli BM
Njobe MA (alt)
Pandor GNM
Phenethi MM
Piliso M
Radue RJ
Rasmeni S
Rhoda RT
Selebi JS
Skosana B
Sizani RK
Surty ME
Tyobeka VM

Apologies : Asmal AK, Govender P, Green LM, Mncwango M, Myburgh GB,
Vos S

J Tsalamandris and Z Adams were in attendance.

1. OPENING AND APOLOGIES

- 1.1 The chairperson noted apologies from Minister Asmal, Mr Myburgh, Mr Mncwango and Ms P Govender. Mr Radue will be late.
- 1.2 The chairperson reminded the Committee that the business of the meeting was to attempt to complete Block 1.
- 1.3 The Chair also reported on a letter from the Directorate informing the Theme Committee on the appointment of technical experts. The names of experts for Theme Committee 4 are as follows: Professor Cheadle, Professor Dugard, Ms Liebenberg and Professor Rautenbach.

2. REPORT FROM PREVIOUS MEETING

- 2.1 The meeting of 31 January 1995 dealt with paragraph 1 of Block 1 of the Work Programme.
- 2.2 After some discussion the meeting agreed on the following:
- i) There is a need for a general discussion on the Constitutional Principles mentioned in paragraph 2 as they impact the work of the Theme Committee.
 - ii) It is not necessary to wait for detailed party submissions on these Principles.

3. MATTERS ARISING

- 3.1 The meeting was referred to the rest of the agenda.

4. WORK PROGRAMME: BLOCK 1 - OUTSTANDING ISSUES:

4.1 Discussion on Paragraph 2: - General discussion of related Constitutional Principles such as I, III, V, IX, XI, XII, XIII(1), XXVIII, XXXIV

- 4.1.2 The IFP position was presented by Mr Skosana. Mr Skosana noted that the IFP agreed with the sentiment of all the principles mentioned in paragraph 2, but believed that some of the Principles would be covered by the work of other Theme Committees.

Mr Skosana added that detailed submissions elaborating on these Principles may be needed when dealing with Block 2 of the work programme.

- 4.1.3 Mr Mulder outlined the **FF's** views, noting that the FF wished to place special importance on Principles XI, XII. The FF wished to reserve its opinion on whether Principle XXXIV should be included in a Bill of Rights.

Mr Mulder also added that the FF was in favour of considering international Covenants as they may include rights not covered by Chapter 3. This especially so, with reference to the Covenant on Civil and Political Rights which covered minorities, language and culture.

- 4.1.4 Mr Mfebe presented the **ANC's** views on the Constitutional Principles, and gave a general overview of the relevant Constitutional Principles.

Mr Mfebe emphasised that the ANC understanding of human rights concurs with those elaborated upon in international charters, including the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights.

With regards to relevant Constitutional Principles, Mr Mfebe highlighted inter alia, Principles II, III, V, IX, XI, XII and XIII. Also stressed in this regard was the need to address inequalities for those disadvantaged by discrimination and the need for equality in a future Constitution.

- 4.1.5 The **DP** position was presented by Mr Leon. Mr Leon noted that the Theme Committee is bound by all the Constitutional Principles of the Interim Constitution, adding that there can be no single clause in the Bill of Rights which conflicts with any of these Principles. Any such conflict would invalidate the Bill of Rights.

Mr Leon added that the enquiry into these Principles is in the DP's view a purely mechanical exercise the purpose of which is to establish which Principles are applicable to the Bill of Rights and which are relevant to other sections in the Constitution.

- 4.1.6 The **NP's** views were outlined by Mrs Camerer. Mrs Camerer noted that the NP reserved the right to make a more extensive submission at a later stage. The NP also acknowledged that the Principles would govern whatever is produced in the Bill of Rights.

Also with regards to the Principles, the NP agreed with Principles II and III. The NP also envisaged serious consequences if Principles IX, XI, XII and XIII were applied horizontally.

A detailed examination of the rights of minorities and the protection of language and culture as provided for in Section 31 of the Interim Constitution was also implied by Principles XI, XXXIV.

- 4.1.7 Following the overviews by political parties of the Constitutional Principles, the chairperson attempted to synthesise the points of agreement. It was noted that there seemed to be consensus on the binding nature of the all the Constitutional Principles.
- 4.1.8 Mr Mfebe added that he wished to place on record that the ANC regards the Constitutional Principles as binding.
- 4.1.9 Clarification was asked of the NP on the impression gained that the NP saw the Bill of Rights applying vertically only. In response, the NP explained that the Theme Committee was bound by the Constitutional Principles when issues of verticality and horizontality came up for discussion. The NP further added that a horizontal Bill of Rights may conflict with the Constitutional Principles.
- 4.1.10 The chairperson informed the Committee that according to the terms of reference of the Committee there was no need to reach agreement on all issues. The Constitutional Assembly was the forum where debates were going to be resolved.
- 4.2 Discussion on Paragraph 3: - Suggested approach as to the identification of rights not covered by CP II.**
- 4.2.1 Discussion on this matter revolved around the rights not covered by Chapter 3 and Principle II, and the process by which the Committee could identify what "universally fundamentally accepted rights" are.
- 4.2.2 The ANC proposed that parties review international Charters and declarations on the definition of universal human rights as well as Chapter 3 of the Interim Constitution. If any rights were not covered by these documents, parties could add to the list.
- 4.2.3 The ANC added that expert opinion was not a prerequisite for the identification of "universally accepted fundamental rights".
- 4.2.4 Regarding the issue of "universally accepted fundamental rights", the NP said that they were prepared to consider international documents to arrive at an informed opinion as to what universal rights were, but believed that Chapter 3 should form the basis of a discussion.
- 4.2.5 The FF suggested that the point of departure for the Committee should not be Chapter 3 of the Interim Constitution, but the UN Universal Declaration of Human rights and the Covenants on Civil and Political Rights and the Social, Economic and Cultural Rights. The Committee could then review Chapter 3 and then consider which Constitutional Principles were not covered by these documents.

- 4.2.6 Following this discussion the Committee agreed to consider the Draft Report on Block 1 as the best way to take the discussion on paragraph 3 forward.

5. REPORT OF BLOCK 1

- 5.1 The chairperson informed the meeting of the process which lead to the writing of the report. This was as follows:
- i) A committee was elected and met to draft the report.
 - ii) Mrs Camerer was nominated as the scribe and forwarded the first draft to Mr Tsalamandris of the CA Administration.
 - iii) Political parties communicated with Mr Tsalamandris regarding the content of the draft and suggested changes.
 - iv) The changes were then incorporated into one document entitled **"Draft Discussion Document - First Report of Theme Committee 4 on Block 1 of Work Programme"** (included in the documentation).
 - v) A draft prepared by the ANC was also circulated for discussion by the ANC.
- 5.2 Following a detailed discussion of the report, the meeting agreed on the following proposal:
- i) An attempt would be made to combine the two reports to produce a single document which would reflect points of consensus and points of differences.
 - ii) It is the responsibility of the Drafting Committee as a Sub-Committee of the Theme Committee to accomplish the above task.
 - iii) The report must include the whole of Block 1 and must not attempt to arrive at a 'forced' consensus on the issues discussed and its main purpose is to provide an accurate reflection of discussions.
 - iv) The Drafting Committee will meet on Friday 3 February and present an amended draft to the Theme Committee meeting on Tuesday 7 February 1995.
 - v) The report must follow the format outlined by the Constitutional Committee.

6. CLOSURE

The meeting rose at 16h15.

-DRAFT: FIRST REPORT OF THEME COMMITTEE 4

SECOND DRAFT: DISCUSSION DOCUMENT

FIRST REPORT OF THEME COMMITTEE 4 ON BLOCK 1 OF WORK PROGRAMME

Having agreed to the first block of the Theme Committee's Work Plan ie. Constitutional Principle II, the Committee has the pleasure of submitting the following report.

All parties made submissions in relation to the meaning and interpretation of Principle II and their approach to a Bill of Rights in the Constitution and these are included (in document).

As far as the specific wording on clarifying phrases in the Principle is concerned:

1. *Everyone shall enjoy ... "(Whether the term "everyone" includes juristic persons, structured and unstructured groups, and organs or civil society, etc)*

1.1 Contentious Issue(s): "Everyone"

1.1.1 The ANC states that rights referred are rights of born person(s) or natural persons. The Bill of Rights refer to rights enjoyed by human beings and even Chapter 3 refers primarily to rights of natural persons. The term "**everyone**" therefore exclude juristic person(s).

1.1.2 Other parties including the NP, DP and IFP reserved their position and stated that they believed "**everyone**" should include juristic persons.

1.1.3 The ACDP stated that unborn persons should be included under the term "**everyone**".

Suggestion: The matter be discussed and debated in greater detail.

1.2 Contentious Issue(s): "Vertical and Horizontal Application of Rights"

1.2.1 The ACDP, ANC, DP, IFP and PAC supported a vertical and horizontal application of the Bill of Rights in principle.

1.2.2 The DP and FF said horizontal application should be approached cautiously.

1.2.3 The NP primarily supported vertical application, but were not against an extension of the application of the Bill, at the same time noting concern about the possible disruption of South Africa's Private Law system.

Suggestion: Specific rights shall be examined and the implications or consequences in terms of horizontal application shall be evaluated. Expert advice can be sought by individual parties if required.

2. *"all universally accepted fundamental rights, freedoms and civil liberties" (which rights etc., qualify as universally accepted fundamental rights)*

2.1 Non-Contentious Issue(s):

2.1.1 All parties agreed that the UN Universal Declaration of Human Rights (1948) and other relevant Covenants on Human Rights, Civil Rights and Social and Political Rights can be used as important references for identifying universally accepted fundamental rights.

2.1.2 The parties will make submissions as to what they regard as universally accepted fundamental human rights.

2.2 Contentious Issue(s): "Universally accepted fundamental rights..."

2.2.1 The NP is of the opinion that expert opinion shall first be obtained to interpret what can be regarded as universally accepted rights, but the ANC and other parties indicated that experts were not necessary to evaluate what the rights were.

2.2.3 The DP believed that such a workshop could easily be accommodated within the schedule of ongoing meetings of the Theme Committee.

3. "entrenched and justiciable provisions"

3.1 Non-Contentious Issue(s):

3.1.1 The Bill of Rights should be entrenched and enforced.

3.1.2 All parties agreed that other organs of enforcement be looked at.

3.1.3 All parties supported a strong judiciary.

3.1.4 Parties agreed that there should be a provision allowing for further additions to be made to the Bill of Rights at a later stage - As suggested by the FF and IFP).

3.2 Contentious Issue(s):

3.2.1 None

4. "due consideration to inter alia the fundamental rights contained in Chapter 3"

4.1 Non-Contentious Issue(s):

4.1.1 Most parties agreed that due consideration must be given to each right in Chapter 3 of the Interim Constitution, but they do not regard these rights as exhaustive.

4.1.2 The parties also agreed that they are not limited by the rights in Chapter 3 only.

5. *General Discussion of Related Constitutional Principles such as I, III, V, IX, XI, XII, XIII(1), XXVIII, XXXIV*

5.1 A preliminary discussion was held in which each party gave their perspective on the Principles.

5.2 It was agreed that detailed submissions on Principles relevant to the Bill of Rights would be made by parties if necessary.

- 6. *Suggested approach as to the identification of rights not covered by Constitutional Principle II***
- 6.1 All the parties agreed that this had been covered by discussions in paragraphs 1 and 2 (See Above).

- WORK PROGRAMME: BLOCK 2

2: Nature of Bill of Rights and application**3: Right to equality****Suggested framework for agenda item 3**

- (a) Content of the right.
- (b) Equality as a human right of the individual and the question of juristic persons.
- (c) Prohibited grounds for discrimination.
- (d) Affirmative action.
- (e) Effects on customary law, including the rules and customs of religious and traditional communities.

Relevant Constitutional Principles: I, II, III, V, XI, XII, XIII(I)

Relevant sections of Interim Constitution: Preamble, Sections 3, 8, 10, 12, 17, 32, 33(4), 119 - 123

4: Right to human dignity

Content of right

See CP II and Sections 10,12, 25(1)(b)

5: Right to life**Suggested framework to agenda item 5**

- (a) The right to life as a fundamental right.
- (b) Controversial issues such as -
 - capital punishment
 - abortion
 - euthanasia

See CP II and Section 9

6: Right to Privacy**Suggested framework for agenda item 6**

- (a) Aspects of personal privacy that need to be protected constitutionally.
- (b) Controversial aspects
 - intelligence services and state

-DRAFT: COMMUNITY LIAISON PROGRAMME

DRAFT PUBLIC PARTICIPATION PROGRAMME

COMMUNITY LIAISON

MISSION STATEMENT :

“To facilitate an interface or dialogue between the South African people and their elected representatives by consulting the population at various levels and at various stages of the process of constitution making.”

(CA Resolution of 31 October 1994)

INTRODUCTION

On 31 October 1994 the Constitutional Assembly adopted a document entitled “**Public Participation - A Strategic Overview**” which set out the broad framework within which the community liaison programme will take place.

1. GUIDING PRINCIPLES

- Transparency
- Credibility
- Legitimacy
- Consultation
- Inclusivity

2. OBJECTIVES OF PUBLIC PARTICIPATION PROGRAMME (PPP) :

(Extracted from Constitutional Assembly Resolutions, 5 September 1994)

- ensure that the draft constitution enjoys the support and allegiance of all South Africans
- new constitution should represent the aspirations of all our people
- process should serve to unite the country's people and produce a constitution which will become the cornerstone of the future South Africa. It should be people driven and transparent
- new constitution must be the product of an integration of ideas of all role players. In this regard, there should be maximum public participation
- there should be an effective strategy for media and community liaison
- media and public participation strategies should aim at facilitating the required “dialogue” and channels of communication between the broader public and their elected representatives
- programmes of the Constitutional Assembly should be “non-party political”. Strict monitoring should ensure that the programmes promote the Constitutional Assembly and the interests of the country as a whole

3. *COMMUNICATION OBJECTIVES*

- Develop, raise and popularise the CA profile
- Solicit views and submissions
- Brief public - on the constitution making process
 - procedure for submissions to CA
- Consult all sectors and role players
- Increase public interest and awareness through constitutional education
- General involvement and engagement of public at large

4. *PROGRAMMES*

- Special Events
 - Launch Briefings
 - Other Special Events
- Theme Committee Requests
 - Hearings
 - Seminars
- Constitutional Public Meetings (CPMs)
- Constitutional Education Programme (CEP)

5. *TIME FRAMES*

It is envisaged that the CLP will be run in two phases;

- First Phase : Develop draft constitution - February 1995 to end of July 1995
- Second Phase : Popularising the draft constitution - August 1995 to May 1996

This document deals with detailed planning for February 1995.

LIST OF ABBREVIATIONS

PPP : Public Participation Programme	PMT : Project Management Team
CL : Community Liaison	SACS : South African Communication Service
CLP : Community Liaison Programme	TC : Theme Committee
CPM : Constitutional Public Meetings	NGO : Non Governmental Organisation
CEP : Constitutional Education Programme	CBO : Community Based Organisation

COMMUNITY LIAISON PROGRAMME : FEBRUARY 1995

6. SPECIAL EVENTS

6.A. LAUNCH BRIEFINGS

6.A.1. Introduction

It is proposed that the CA Chairpersons - Messrs Cyril Ramaphosa and Leon Wessels - should visit three provinces - namely the Western Cape, Northern Cape and Gauteng, in order to launch the CLP. Briefings in the other provinces are envisaged in the months to come. Briefings will also be used in the second phase of the constitution making process.

6.A.2. Objective

To develop, raise and popularise the CA profile.

6.A.3. Process

Three briefings are envisaged to launch the Community Liaison Programme (CLP). The briefings used to nationally launch the CLP should be of high profile to attract maximum media coverage.

6.A.4. Proposed Briefings

First briefing

Date	:	First week in February
Area	:	Western Cape (Boland)
Target group	:	Farmworkers and management

Second briefing

Date	:	Second week in February
Area	:	Northern Cape (Kuboes)
Target group	:	Rural community

Third briefing

Date	:	Third week in February
Area	:	Gauteng
Target group	:	Urban community

Structure

- CA participants : Mr Cyril Ramaphosa (Chairperson CA)
Mr Leon Wessels (Deputy Chairperson CA)
: Representatives from all political parties in the CA
- Chair : It is proposed that the Provincial Premier or a Provincial
MEC should chair the meeting.
- Content of meeting : Duration: 1 hour:
Brief: 30 minutes
Questions: 30 minutes

Programme:

The programme will consist of a briefing on the Constitutional Process by the CA Chairs. It is expected, through these briefings, that:

- public participation will be encouraged;
- public awareness will be increased;
- the role of the CA in directing public participation is highlighted.

It is inevitable that questions from the audience will arise. Opportunity - though limited - should be given for questions to be posed to the Chairs.

Media:

Since these briefings serve as the launch of the CLP, time should be allowed for media interviews, if requested. Close co-operation with the Media Department is of utmost importance.

6.A.5. Resources

Given the time constraints, resources such as exhibitions, pamphlets, T- shirts cannot be fully utilised for the first three proposed briefings. The Media Department is requested to arrange posters and pamphlets.

6.A.6. Evaluation / monitoring

To determine the success of the first three briefings, and to set guidelines for future briefings, evaluation is important and will be dealt with as follows:

- Tape recording of the briefing;
- Monitoring the media response;
- Report back from the Chairs;
- Members of the CL team will attend the briefings to evaluate and monitor evaluation thereof.

6.B OTHER SPECIAL EVENTS

Further special events proposed include:

- A simulated Constitutional Assembly process for high school pupils;
- Human rights debates for high school pupils;
- Mock Constitutional Court cases for high school pupils and university law students.

7. *THEME COMMITTEE REQUESTS*

7.A *HEARINGS*

7.A.1. Introduction

Theme Committees will require specialist submissions on issues from target groups. Thus target groups will be invited to hearings to give views on required issues. The need for these hearings is subject to input from the TCs.

7.A.2. Objective

To solicit views and submissions.

7.A.3. Process

Community Liaison (CL) proposes single hearings where there is an overlap between different Theme Committees (TCs).

Schedule of Hearings

Date	Target Groups
February	Business
March	Women
April	Traditional Leaders
May	Labour
June	Religious Groups

All Theme Committees are free to indicate to CL which hearings they would like to attend.

Theme Committee requests

CL will draft a standard request form to be used by Theme Committees.

CL requires reasonable notice from TCs, taking into account:

- capacity of CL;
- availability of sectors who will need time to consult with their constituencies.

7.A.4. Resources

Background information packages eg press cuttings.

7.A.5. Evaluation/Monitoring

Managing Secretaries will evaluate the hearings and submit a report to CL.

7.B SEMINARS

It is proposed to hold seminars in order to brief Theme Committees on constitutional issues following the work programme. It is proposed that universities, technikons and other institutions be approached to convene specialist seminars on issues discussed by the TCs. The seminar programme will respond to the needs of the TCs and will be guided by the Law Advisers. Because of the ad hoc nature of this section of the programme all TC requests would need to be properly co-ordinated in conjunction with the Management Committee.

8. CONSTITUTIONAL PUBLIC MEETINGS (CPMs)**8.1. Introduction**

To involve and engage the public at large, Constitutional Public Meetings (CPMs) will be held throughout the country. The public will have direct access to their elected representatives and will be invited to give individual submissions.

8.2. Objective

To involve and engage the public at large.

8.3. Process

February will be used as the pilot phase of the Community Liaison Programme. It is proposed that teams from the same TC will attend particular CPMs, and that a team should comprise up to ten people, with at least one person from each party.

*Proposed CPMs**Free State*

Target date : February 18
 Venue : Mangaung

Eastern Cape

Target date : February 18
 Venue : Grahamstown

Eastern Transvaal

Target date : February 18
 Venue : Drum Rock

Western Cape

Target date : February 18
 Venue : Worcester

Northern Cape

Target date : February 25
 Venue : Kimberley

KwaZulu - Natal

Target date : February 25
 Venue : Kwa-Mashu

North West

Target date : February 25
 Venue : Klerksdorp

Gauteng

Target date : February 25
 Venue : Duduza

Northern Transvaal

Target date : February 25
 Venue : Namakgale

Note: The issues to be addressed in particular CPMs will be determined on the basis of the work programme and will be guided by the Law Advisers.

8.4. Theme Committee Commitments

Three options as to how TC members will attend future CPMs are proposed (for logistical reasons, operational from March 1995). TC members are requested to decide on the most feasible option available, taking into account the objectives of the PPP as outlined by the Resolutions of the CA..

Option 1

Working days	:	Saturdays & Sundays
Who	:	The 6 TCs divided into 2 groups = 12 groups Group 1: Saturday & Sunday mornings : 2 meetings per group per weekend Group 2: Saturday & Sunday afternoons : 2 meetings per group per weekend
CPMs	:	24
Total CPMs	:	24 x 18 (available weekends till 30 June 1995) = 432

Option 2

Working days	:	Saturdays only : mornings & afternoons
Who	:	The 6 TCs
CPMs	:	12 : 6 TC groups x 2 meetings per day
Total CPMs	:	12 x 18 (weekends available till end of June 1995) = 216

Option 3

Working days	:	Every second Saturday
Who	:	The 6 TCs, alternating
CPMs	:	6 (6 meetings per weekend)
Total CPMs	:	6 x 18 weekends = 108 CPMs during PPP

8.5. Proposed structure of the CPMs

Duration	:	3 hours		
Welcome	:	Host	:	10min
Introduction	:	Facilitator	:	10min
Input	:		:	45min
	-	Constitution Making Process		
	-	Specific TC issues		
	-	Issues discussed by other TCs		
Questions and Discussion	:		:	105min
Closure	:		:	10min

TC members will be provided with a brief, compiled by CL and Law Advisers, before each CPM, giving details of current issues in each TC. These issues will be drawn from the Work Programme.

Please note: Due to translation and other factors, time allocated could be extended.

Appointment of Chairperson

It is proposed that :

- criteria for the selection of the chairperson be established by CL.
- chairperson should be neutral and identified from the community.
- the national Community Liaison Team should have veto power on the appointment of the chairperson.

Facilitator:

It is proposed that the facilitator should introduce the constitution making process and facilitate the making of submissions.

8.6 Proposed role of the Secretariat

It is proposed that the Managing/Minute Secretaries be involved in two levels of the Constitutional Public Meeting :

- during the CPM
 - take minutes of meeting and receive written submission
 - record meetings
 - collect evaluation forms from facilitator to return to CL
- after the CPM
 - take evaluation forms to Deputy Assistant Director : Community Liaison

8.7 Evaluation of CPMs

The following people are suggested to be evaluators: CA members, facilitators, provincial co-ordinators (CEP), national community liaison officers, random audiences and community leaders. Areas of evaluation will include process, content and promotional material.

9. CONSTITUTIONAL EDUCATION PROGRAMME (CEP)

9.1. Introduction

The Constitutional Assembly Work Programme for 1995 articulated the objectives of the Constitutional Education Programme as follows:

"The Constitutional Assembly, in association with a wide variety of NGOs, CBOs and other sectors of South African society, will conduct a wide ranging programme of constitutional education that will be accessible to South Africans at all levels. The programme will include South Africans in the constitution-making process by providing training on the key issues of constitutionality and briefing them on developments within the Constitutional Assembly. The assistance of NGOs and CBOs will allow this programme to reach disadvantaged communities, inaccessible or 'invisible' sectors and rural communities."

On 2 December 1994 the Constitutional Committee approved the programme and requested further information. Such information is detailed below.

9.2. Objectives

The Constitutional Education Programme has the following objectives:

- * helping to ensure maximum community participation in the constitution-making process, primarily through community workshops;
- * ensuring that the Constitutional Education Programme is in step with the different phases of the constitution-making process. In the first phase this will require a Constitutional Education Programme grounded in the workplan of the Theme Committees.

9.3. Process

The primary mechanism of delivery for this programme is the use of community workshop, so as to educate communities on the constitution-making process and to empower them to make submissions. Community workshops will be run, where possible, prior to Constitutional Public Meetings as well as independently of these meetings. This programme would continue into the second phase of the constitution-making process (the consideration of the draft constitution) and will lay the foundation for a wide-reaching public education programme which could be utilised in the development of a human rights culture.

Short-term implementation:

A short-term programme has been developed for February:

- Convening a national consultative meeting to be held in Cape Town, provisionally scheduled for 9/10 February, to provide NGOs and CBOs with a briefing and to assess existing resources;
- Running two pilot workshops in conjunction with NGOs, on Sunday 19 February and Sunday 26 February, at venues still to be finalised.

9.4. Training and Resource Development**Training:**

This will encompass the training and briefing of co-ordinators and workshop facilitators from the CA, SACS and NGOs.

Resources:

A wide range of resources are envisaged, in order to ensure that the constitution-making process is accessible to as many sectors and constituencies as possible. The use of simple language, translation, drama and visual materials will be essential components of these resources. A workshop kit will be developed in conjunction with the NGO sector, including resources such as:

- * an educational booklet on how to participate in the constitutional process;
- * a looseleaf constitutional education manual (allowing for updates);
- * outlines for community workshops;
- * educational/information posters, including CA promotional material for use in local community venues such as advice offices and municipal offices.

9.5. Evaluation and Reporting Mechanisms

Mechanisms will be developed to assess the overall implementation and impact of the programme, including feedback from workshops and the effectiveness of resources.

Regular reports will be made to the Management Committee and close liaison maintained with the Theme Committees.

10. CONCLUSION

It is proposed that detailed project planning be submitted to the Directorate: CA Administration and the Management Committee on a monthly basis. Planning should reach the Management Committee not later than the second meeting of the preceding month.