

CONSTITUTIONAL ASSEMBLY

AMMENDED REPORT FROM THEME COMMITTEE 1
15 FEBRUARY 1995

I) INTRODUCTION:

A preliminary report was completed by the sub-committee together with the technical experts. The latter were given the task to extract contentious and non-contentious points from party submissions pertaining to Block 1.

After debate and modification at the Theme Committee meetings of the 8th and 9th February 1995, we are pleased to report that the Theme Committee was able to find consensus on the following eleven points as embodying the character and nature of a democratic state.

II) NON-CONTENTIOUS POINTS:

- A) The Constitution shall be the supreme law of the land. It shall be binding on all organs of state at all levels of government.
- B) There shall be a multi-party political system, premised on regular elections, universal adult suffrage and a common voters' roll.
- C) Fundamental rights of the person shall be protected in an entrenched Bill of Rights, justiciable by an independent judiciary.
- D) The normative values underlying the Constitution shall be accountability, democracy, equality, freedom and transparency.
- E) There shall be a common South African citizenship.
- F) Elections shall proceed, in general, on the basis of proportional representation. The possibility of constituency representation shall be explored.
- G) * South Africa shall be a sovereign, independent and undivided state.
- H) There shall be three levels of government i.e. National, Provincial and Local.
- I) There shall be separation of legislative, executive and judicial powers in the State.
- J) The Executive shall be accountable to Parliament.

- K) The recognition and protection of collective rights of self-determination in forming, joining and maintaining organs of civil society, including linguistic, cultural and religious associations, on the basis of non-discrimination and free association, and possible constitutional provision for a notion of the right to self-determination by any community sharing a common cultural and language heritage, whether in a territorial entity within the state or in any other recognized way.

The following points were identified as contentious points:

III) **CONTENTIOUS POINTS:**

- A) The nature (legislative, executive, administrative and judicial) and extent of the powers of the various levels of government.
- B) Whether Parliament shall be bi- or unicameral in structure.
- C) Parliament's supremacy as a law-maker.
- D) The nature and extent of representation and rights of cultural and linguistic minorities, including group self-determination.
- E) The constitutional entrenchment of minority party participation in government.
- F) Government shall be by majority rule.
- G) The content and constitutional entrenchment of participatory democracy.
- H) South Africa shall be a secular state.

The IFP announced that it rejected the form and content of the preliminary framework document. The IFP also announced that it viewed the entire preliminary report as being contentious and tabled a document in this regard. Noting that the thrust of the said party's document constituted a frontal assault on the entire constitution making process, the meeting resolved to proceed with the process of identifying contentious and non-contentious issues. The meeting further agreed that the report to the Constitutional Committee should be accompanied by the document dated the 9 february 1995, from the IFP.

* It was resolved at the Core Group meeting, held on the 10 February 1995, that Principle G under non-contentious points, shall not anticipate that the State will be structured along Federal or unitary lines nor shall it preclude any party from arguing in favour of Federalism or unitarianism.