

2/3/15

**CONSTITUTIONAL
ASSEMBLY**

**MANAGEMENT
COMMITTEE**

**MONDAY
7 NOVEMBER 1994
(12h00)
V16**

DOCUMENTATION

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CONSTITUTIONAL ASSEMBLY
MEETING OF THE MANAGEMENT COMMITTEE

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

Date: Monday 7 November 1994

Time: 12h00 - 13H00

Venue: V16

AGENDA

1. Opening
 2. Minutes: Pages 2 - 4
 3. Matters Arising: See Agenda Items Below
 4. Report on Preparations for the Constitutional Committee: No Documentation
 5. Report on the Sub-Committee to Select a Panel of Experts: No Documentation
 6. Constitutional Assembly
 - 6.1 Report on Discussions: Pages 5 - 8
 - 6.2 Consideration of the Constitutional Assembly Process: No Documentation
 7. Any Other Business - 7.1. *Constitutional Assembly*
 8. Closure - 7.2. *Work Prog.*
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H EBRAHIM
EXECUTIVE DIRECTOR
CONSTITUTIONAL ASSEMBLY

Enquiries: Ms MM Sparg, Room CS 205, Tel 403 2274, Page 468 5316

CONSTITUTIONAL ASSEMBLY

MINUTES OF MANAGEMENT COMMITTEE MEETING THURSDAY 4 NOVEMBER 1994 (AT 9H00)

PRESENT RAMAPHOSA MC (CHAIRPERSON)

Chabane OC
Eglin CW
Felgate W
Mabandla BS
Meshoe K

Meyer R
Moosa MV
Sizani R
Van Breda A
Viljoen C

Apologies: L Wessels

In attendance:

Ebrahim H, Lilienfeld P, Meyer A, Zondo L, Sparg M, Matyolo L, Mngadi-Kgosidintsi T, and Keegan M.

1. OPENING

- 1.1 Mr. Ramaphosa opened the meeting at 09h02.
- 1.2 The meeting offered its condolences to Mr. van Breda and his family for the loss of Mr. van Breda's brother.
- 1.3 The meeting agreed that the topic, the Constitutional Assembly process, be included in Item 10: Any Other Business.

2. MINUTES

The Minutes of the meeting held on Monday 31 October were adopted.

3. MATTERS ARISING

None - included in the Agenda Items below.

4. DEPARTMENT OF CONSTITUTIONAL DEVELOPMENT

- 4.1 Mr. Moosa tabled and spoke to a revised document, entitled "*Possible Assistance to the Constitutional Assembly by the Department of the Constitutional Development.*"

- 4.2 There was agreement that the Department was a resource which should be utilised in the process of constitution-making. However, no agreement could be reached on appropriate mechanisms to ensure that the Department was not seen to be "party-political" Mr. Meyer undertook to revise the proposal in light of the concerns expressed and re-submit it on 7 November 1994.
- 4.3 The Directorate is currently developing a data base on all available technical experts in South Africa and will publish this information in a booklet that will be available in the near future.

5. THEMES COMMITTEE REPORT

- 5.1 Mr. Ramaphosa introduced the document, "*Theme Committees: Secretariat Report,*" included in the documentation.
- 5.2 Mrs. Mabandla asked that "Principle III" in paragraph 5 be correctly cited as "Paragraph II".
- 5.3 Mr. Felgate requested greater clarity on what roles the Secretariat and Theme Committee members will play. It was noted that the Secretariat would play an administrative role, facilitating and providing back-up. Theme Committee members would process issues in discussion and hence would draft reports for the Constitutional Assembly. It was emphasized that Core Groups would have to ensure that Theme Committee members fulfill this role in light of the heavy work schedule.
- 5.4 Mr. Felgate raised the need for rapporteurs. Core Group or Theme Committee members may not be available to do such work. Mr. Viljoen suggested that technical advisors could assist in this regard. The matter would be discussed at a later stage. Members were urged to apply their minds to the issue.

6. STATUTORY STRUCTURES

6.1 COMMISSION FOR PROVINCIAL GOVERNMENT

Mr. Ramaphosa reported on a meeting held with the Chairperson of the Commission for Provincial Government to discuss what relationship the Constitutional Assembly should have with the Commission. A memorandum detailing proposals coming out of the meeting is being prepared.

6.2 VOLKSTAAT COUNCIL

Mr. Ramaphosa reported on a meeting held with the Chairperson of the Volkstaat Council. The Chairpersons of the Constitutional Assembly will hold ongoing meetings with representatives of the Volkstaat Council on matters arising in the Council and to keep them briefed. A report with recommendations will be presented to the Constitutional Committee.

7. PANEL: REPORT OF THE SUB-COMMITTEE

The meeting agreed that, because the Sub-Committee to Select a Panel of Experts is meeting on Monday, it can offer a verbal report to the Management and Constitutional committees.

8. CONSTITUTIONAL COMMITTEE OF 7 NOVEMBER 1994: AGENDA

The Agenda for the Constitutional Committee meeting of 7 November 1994 was approved.

9. CONSTITUTIONAL ASSEMBLY MEETING: 31 OCTOBER 1994

It was agreed that discussion of the document, "*Debate in Constitutional Assembly*," included in the documentation would be held over until the next meeting of the Management Committee on 7 November 1994.

10. AOB

Mrs. Mabandla suggested that the Committee should also apply its mind to the problem of trying to ensure maximum participation of all Constitutional Assembly members in the process. It was agreed this would also be discussed in the next meeting.

11. CLOSURE

The meeting closed at 13h15.

CONSTITUTIONAL ASSEMBLY

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REF NO:

MEMORANDUM

TO : Members of the Management Committee

FROM : Hassen Ebrahim
Executive Director

DATE : 2 November 1994

SUBJECT : DEBATE IN CONSTITUTIONAL ASSEMBLY

I refer to the Constitutional Committee meeting of the 31st October 1994 and have identified some issues raised in debate which you may wish to consider further.

1. Construction of the Constitution -

It has been argued that the Constitution should be user-friendly, accessible, available in all languages and in a language that is simple enough for all citizens to understand. It was further stated that the simplicity in language should be finely balanced with the legal requirements of the new constitutional text.

2. Technical assistance -

2.1 A request was made that technical assistance be given to especially smaller parties so as to enable them to participate more effectively in the drafting process. This, however, begs a further question regarding the responsibility of the Constitutional Assembly to assist any party in any way whatsoever - bearing in mind the financial implications thereof.

2.2 The Management Committee was also urged to consider the position of members of Theme Committees and consider means of empowering members so as to enable them to participate fully in the process as a whole so as to ensure that technical experts did not dominate the process of constitution-making at the expense of elected representatives.

3. Tabling of submissions -

The discussions held in the Management Committee with regard to the tabling of an index containing all the submissions made to the Constitutional Assembly was raised in debate. Kindly note that this matter is presently being attended to by the Directorate and will be presented for consideration by the Management Committee shortly.

4. Schedules -

4.1 Concern was raised that various structures of the Constitutional Assembly were scheduled to meet at the same times as Parliamentary Standing Committees. This matter was raised by the Chairperson with the Directorate and a memorandum detailing this complaint has already been issued to the Speaker as well as the Committees Clerks and Programme Officers. Hopefully, this problem will not repeat itself.

4.2 It was also emphasised that the Chairperson, Speaker of the National Assembly and President of the Senate needed to ensure members were provided with the necessary facilities to manage their workloads and mention was made of a commission in this regard.

5. Media -

5.1 A note of caution was sounded about the budgetary implications of producing our own media. It was emphasised that we needed to maximise the utilisation of the present media coverage of proceedings and that media liaison should be the corner-stone of the media strategy as a whole. It was suggested that the media campaign should be less of a publicity or public relations exercise but should concentrate on achieving effective communication with the public.

5.2 It was emphasised that the media campaign would need to be closely monitored to ensure that it achieved the stated objectives.

6. Provinces -

The Chairperson's remarks with regard to liaison with Premiers and Provincial Legislatures to ensure greater involvement in the drafting of the Constitution was raised. Kindly note that this matter is presently being attended to.

7. Traditional Leaders -

It was suggested that various Theme Committees dealing with Traditional Leaders organise a general meeting on dealing with the question of Traditional Leaders. Kindly note that this matter will arise for the attention of the Management Committee from the various Theme Committee submissions in their work plan.

8. Interim Constitution -

It was suggested that whilst we should not slavishly follow the Interim Constitution, we should not scrap it completely.

9. Theme Committees -

It was argued that the main function of this structure was to give parties, organisations, structures outside of the Constitutional Assembly and the broader public an opportunity to participate in the constitution-making process. The work programmes of Theme Committees would need to take this into consideration.

10. Rural population -

We were urged to empower this sector of our population so as to enable them to effectively participate in the drafting process. In this regard, it was suggested that the structure of the Constitutional Assembly should not wait for people from the rural areas to come to it, rather, we should go to them. It was pointed out that the Budget of approximately R20 million allocated for the community liaison programmes would be money well spent if the programme was properly structured and reached the disadvantaged sectors of the population.

11. Public views -

In this regard an inquiry was made as to what mechanisms would be utilised to make views from members of the public known to Theme Committees so that these views can also be incorporated in the process. Kindly note that aside from the tabling of an index of submissions with the Constitutional Assembly, copies and or summaries, of the relevant submissions would be made available by the Administration to the respective Theme Committees. It was also pointed out that members of Theme Committees would themselves be attending the various forums arranged with sectors of the public, for example, and would be able to ascertain the views of the public on particular matters in a very direct fashion.

12. International mediation -

This matter was once again raised by the IFP and parties were urged to ensure that this process was initiated.

13. Minority reports -

This matter was raised once again and parties were urged to ensure the inclusion of Minority Reports. It was, however, also noted in the debate that minority views were well accommodated within the reports by Theme Committees as agreed to.

14. Public education -

We were once again urged to ensure that members of the public were educated about the process of constitution making. It was pointed out by the Chairperson that this is one of the primary objectives of the Media Campaign agreed to.

15. Time Frames -

15.1 Most speakers addressed the issue of time frames. Two views emerged. The one view stated that it was possible to complete the process within the stipulated two years now that the framework and modalities had been agreed upon. The second view expressed serious concern about the possibility of meeting these deadlines and said that deadlines should not be adhered to at the expense of thorough work and at the expense of involving the broader public and writing a credible constitution. This view also pointed out that it would not be possible to gain the valuable experience of implementing the Constitution if deadlines were adhered to, too rigidly, as many of the structures would not be set up by June 1995. This was especially so in the case of Provincial and Local structures of government.

15.2 This issue will require ongoing monitoring and discussion by the Management Committee.

16. Technical Committees -

The Management Committee was requested to provide greater clarity on the role of Technical Committees in the process as a whole.

17. Evaluation -

It was emphasised that regular evaluation of the entire process would need to take place to ensure that progress was being made.

