

2/4/1/2/41

**A34**

**CONSTITUTIONAL  
ASSEMBLY**

**THEME COMMITTEE 1  
CHARACTER OF  
DEMOCRATIC STATE**

**28 AUGUST 1995**

**ROOM M515  
09H30**

**DOCUMENTATION**

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## CONSTITUTIONAL ASSEMBLY

### THEME COMMITTEE 1 CHARACTER OF DEMOCRATIC STATE

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

**Date:** Monday, 28 August 1995  
**Time:** 09h30 - 12h30  
**Venue:** Room M515 (Marks Building)

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#### AGENDA

1. Opening
2. Apologies
3. Adoption of previous minutes of the meeting held on the 15 August 1995.
4. Matters Arising
5. Finalisation of Draft Constitutional Provisions for Blocks 7 & 9 (Language, Name and Symbols, Seats of Government and National Territory)
6. Finalisation of Draft Constitutional Provisions for Block 8 (Foreign Relations and International Law)
7. Public Participation
8. General
9. Closure

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H EBRAHIM  
EXECUTIVE DIRECTOR  
CONSTITUTIONAL ASSEMBLY

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Enquiries: L Rammable and S Rabinowitz (Tel: 24 5031 Ext 2266)

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

**MINUTES OF THE MEETING OF THEME COMMITTEE 1  
TUESDAY 15 AUGUST 1995 09H00 ROOM M515**

**Present**

**Mahlangu NJ (Chairperson)**

**Booi MS  
Chiba L  
Chikane MM  
Gumede DM  
Hangana NE  
Janse Van Rensburg AP  
Kekana NN  
Kuzwayo NEK  
Mabuza MC  
Marais A  
Meshoe KR**

**Moorcroft EK  
Mulder PWA  
Ncube BS  
Niehaus CG  
Nobunga BJ  
Routledge NC  
Schoeman EA  
Shope G  
Streicher DM  
Van Deventer FJ  
Vilakazi BH**

**Apologies:**

**Cwele CS  
Goosen AD  
Marais PG  
Sisulu AN**

**Technical Experts present:**

**Corder H**

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

**1. OPENING**

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

**2. ADOPTION OF PREVIOUS MINUTES OF THE MEETING HELD ON MONDAY  
14 AUGUST 1995.**

**2.1 The Minutes of the Theme Committee meeting held on 14 August 1995  
contained in Document A33 [Pages 2 - 7] were adopted.**

**3. MATTERS ARISING**

**3.1 None.**

**4. FINALISATION OF DRAFT REPORT FOR BLOCKS 7 AND 9 (LANGUAGE, NAME AND SYMBOLS, NATIONAL TERRITORY AND SEATS OF GOVERNMENT)**

4.1 Prof Corder tabled the Amended Draft Report on Blocks 7 and 9 (Language, Name and Symbols, National Territory and Seats of Government) contained in Document A33 [Pages 8 - 27] and reported on the following amendments which had been made to the Report after discussion at the Theme Committee meeting of 14 August 1995 and which were reflected in the Minutes of that meeting [Document A33, Pages 5 - 6].

4.1.1 Page 10 - Constitutional Principles XXII and XXXIV had been included in the Report.

4.1.2 Page 23 - Agenda Item 10: Languages

- (a) C. (2) had been added. However Prof Corder reported that after discussion with members of NP this had been further amended and should now read as follows:

*"The NP proposes that the status of Afrikaans and English and any other languages as envisaged in Section 3 (2) of the 1993 Constitution should not be diminished."*

- (b) After further discussion by the Theme Committee of this issue, it was agreed that this matter should remain under Contentious Issues for further discussion by the CC.

4.1.3 Page 23 - Prof Corder further noted that a new category C. "Outstanding Issues" had been added and on Page 24 under Paragraph C (i) the following sentence had been added:

*"The ANC proposes that this issue be referred to the Constitutional Committee."*

4.1.4 Page 24 - Contentious Issues D (ii) - The Seal of the Republic was included under Coat of Arms.

4.1.5 Page 25 - Agenda Item 13: Seats of Government

- (a) B. Contentious Issues - a second sentence had been added reading as follows:

*"This issue will have to be resolved after considering the proposal of Theme Committee 5 in this regard, and will also need to take into account the final decision on the seat of the executive and the legislature."*

- (b) Category C. "Outstanding Issues" had been added and paragraph C (ii) had been revised, in line with the ANC submission dated 10 August 1995, as follows :

*"ANC: believes that cost effectiveness and efficient government should be factors in this decision and that these matters should be referred to the Constitutional Committee for final decision."*

4.1.6 The Analytical Survey had been amended in accordance with the above changes.

4.2 After further discussion of the Report, it was agreed that the following additional amendments should be made:

4.2.1 Page 24 - D (ii). It was agreed that the second sentence should be amended to read as follows:

*"The DP and the ANC propose that a suitable mechanism be established to determine a new coat of arms and seal acceptable to most South Africans."*

4.2.2 Page 26 - Analytical Survey - 1. Languages

(a) With regard to the addition of Constitutional Principles XXII and XXXIV to Page 10 of the Report, it was noted that the Analytical Survey did not accurately reflect the Report and it was agreed that the Analytical Survey should be amended accordingly.

(b) It was agreed that under the column dealing with Contentious Issues, Item 2 should be amended to read as follows:

*"The continuation in force of Section 3 (2) of the 1993 Constitution."*

4.2.3 Page 27 - Analytical Survey - 2. Name, Symbols, National Territory

Under the column dealing with Contentious Issues, Item 3. should be amended to read as follows:

*"Whether international law aspects relating to national territory should be regulated in the Constitution."*

4.3 It was agreed that, subject to the approved amendments being made to the Report and the Analytical Survey and to new Constitutional Provisions being drafted by the Technical Experts, the Report was approved.

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**5. DISCUSSION ON THE REPORT FOR BLOCK 10 (PREAMBLE AND POSTAMBLE)**

5.1 It was agreed that discussion on the issue of the Preamble and Postamble should stand over until such time as the entire Draft Constitution had been completed.

**6. PUBLIC PARTICIPATION**

6.1 The Chairperson requested members to submit names of those who wished to attend the CPM's in Kwazulu Natal to the Secretariat.

**7. GENERAL**

7.1 None

**8. CLOSURE**

8.1 The Chairperson thanked the members for their hard work on the Theme Committee. He further asked members to note that, having made the necessary arrangements with their parties, they were permitted to participate in the CC meetings when their Theme Committee Reports were being discussed in order to assist the CC in taking informed decisions.

8.2 A vote of thanks was proposed to the Chairpersons, the Secretariat and the Technical Experts.

8.3 The meeting rose at 10h25.

  
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**CHAIRPERSON**

***CONSTITUTIONAL ASSEMBLY***

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

***REPORT ON BLOCKS 7 AND 9:***

***LANGUAGE, NAME AND SYMBOLS,  
NATIONAL TERRITORY  
SEATS OF GOVERNMENT***

***28 AUGUST 1995***



**REPORT FROM THEME COMMITTEE ONE**

**BLOCKS 7 & 9 : LANGUAGES, NAME AND SYMBOLS, NATIONAL**

**TERRITORY AND SEATS OF GOVERNMENT**

**PART ONE**

1. Summary Overview of submissions received and processed by Theme Committee One from sources outside the Constitutional Assembly (Volumes 24, 24A, 26, 26A, 29, 31, 34, 37, 38, 39) - See attachment.

Petitions received and processed by Theme Committee One:  
Seats of Government - 696 782 (To keep Parliament in Cape Town  
Language - 1004 133 (Afrikaans as official language)

2. The Technical Committee conducted an Orientation Workshop on National Territory on the 26 June 1995 - before parties made their submissions - for which purpose the attached Briefing Document was compiled.
3. Submissions received at public participation events appear not to have dealt directly with these items.
4. A day of public hearings was held on these items on Saturday, 10 June in the Old Assembly Chamber. A transcription of the events of that day is to be found in the document pack entitled "*Public Hearing: Language, Seats of Government and Name and Symbols, held on June 10, 1995*" circulated to all members.
5. The following Constitutional Principles refer:

*II*

*Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution, which shall be drafted after having given due consideration to inter alia the fundamental rights contained in Chapter 3 of this Constitution.*

*XI*

*The diversity of language and culture shall be acknowledged and protected, and conditions for their promotion shall be encouraged.*

## XXII

*The national government shall not exercise its powers (exclusive or concurrent) so as to encroach upon the geographical, functional or institutional integrity of the provinces.*

## XXXIV

1. *This Schedule and the recognition therein of the right of the South African people as a whole to self-determination, shall not be construed as precluding, within the framework of the said right, 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 Republic or in any other recognised way.*
2. *The Constitution may give expression to any particular form of self-determination provided there is substantial proven support within the community concerned for such a form of self-determination.*
3. *If a territorial entity referred to in paragraph 1 is established in terms of this Constitution before the new constitutional text is adopted, the new Constitution shall entrench the continuation of such territorial entity, including its structures, powers and functions.*

Sections of the transitional Constitution of 1993 relevant to languages are:

### 3. Languages

- (1) *Afrikaans, English, isiNdebele, Sesotho sa Leboa, Sesotho, siSwati, Xitsonga, Setswana, Tshivenda, isiXhosa and isiZulu shall be the official South African languages at national level, and conditions shall be created for their development and for the promotion of their equal use and enjoyment.*
- (2) *Rights relating to language and the status of languages existing at the commencement of this Constitution shall not be diminished, and provision shall be made by an Act of Parliament for rights relating to language and the status of languages existing only at regional level, to be extended nationally in accordance with the principles set out in subsection (9).*
- (3) *Wherever practicable, a person shall have the right to use and to be addressed in his or her dealings with any public administration at the national level of government in any official South African language of his or her choice.*
- (4) *Regional differentiation in relation to language policy and practice shall be permissible.*

- (5) *A provincial legislature may, by a resolution adopted by a majority of at least two-thirds of all its members, declare any language referred to in subsection (1) to be an official language for the whole or any part of the province and for any or all powers and functions within the competence of that legislature, save that neither the rights relating to language nor the status of an official language as existing in any area or in relation to any function at the time of the commencement of this Constitution, shall be diminished.*
- (6) *Wherever practicable, a person shall have the right to use and to be addressed in his or her dealings with any public administration at the provincial level of government in any one of the official languages of his or her choice as contemplated in subsection (5).*
- (7) *A member of Parliament may address Parliament in the official South African language of his or her choice.*
- (8) *Parliament and any provincial legislature may, subject to this section, make provision by legislation for the use of official languages for the purposes of the functioning of government, taking into account questions of usage, practicality and expense.*
- (9) *Legislation, as well as official policy and practice, in relation to the use of languages at any level of government shall be subject to and based on the provisions of this section and the following principles:*
- (a) *The creation of conditions for the development and for the promotion of the equal use and enjoyment of all official South African languages;*
  - (b) *the extension of those rights relating to language and the status of languages which at the commencement of this Constitution are restricted to certain regions;*
  - (c) *the prevention of the use of any language for the purposes of exploitation, domination or division;*
  - (d) *the promotion of multilingualism and the provision of translation facilities;*
  - (e) *the fostering of respect for languages spoken in the Republic other than the official languages, and the encouragement of their use in appropriate circumstances; and*
  - (f) *the non-diminution of rights relating to language and the status of languages existing at the commencement of this Constitution.*
- (10) (a) *Provision shall be made by an Act of Parliament for the establishment by the Senate of an independent Pan South African Language Board*

*to promote respect for the principles referred to in subsection (9) and to further the development of the official South African languages.*

- (b) *The Pan South African Language Board shall be consulted, and be given the opportunity to make recommendations, in relation to any proposed legislation contemplated in this section.*
- (c) *The Pan South African Language Board shall be responsible for promoting respect for and the development of German, Greek, Gujerati, Hindi, Portuguese, Tamil, Telegu, Urdu and other languages used by communities in South Africa, as well as Arabic, Hebrew and Sanskrit and other languages used for religious purposes.*

## **8 Equality**

- (1) *Every person shall have the right to equality before the law and to equal protection of the law.*
- (2) *No person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision, on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or language.*
- (3)
  - (a) *This section shall not preclude measures designed to achieve the adequate protection and advancement of persons or groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of all rights and freedoms.*
  - (b) *Every person or community dispossessed of rights in land before the commencement of this Constitution under any law which would have been inconsistent with subsection (2) had that subsection been in operation at the time of the dispossession, shall be entitled to claim restitution of such rights subject to and in accordance with sections 121, 122 and 123.*
- (4) *Prima facie proof of discrimination on any of the grounds specified in subsection (2) shall be presumed to be sufficient proof of unfair discrimination as contemplated in that subsection, until the contrary is established.*

## **25 Detained, arrested and accused persons**

- (1) *Every person who is detained, including every sentenced prisoner, shall have the right-*
  - (a) *to be informed promptly in a language which he or she understands*

*of the reason for his or her detention;*

- (2) *Every person arrested for the alleged commission of an offence shall, in addition to the rights which he or she has as a detained person, have the right-*
- (a) *promptly to be informed, in a language which he or she understands, that he or she has the right to remain silent and to be warned of the consequences of making any statement;*

### **31 Language and culture**

*Every person shall have the right to use the language and to participate in the cultural life of his or her choice.*

### **32 Education**

*Every person shall have the right*

- (b) *to instruction in the language of his or her choice where this is reasonably practicable; and*
- (c) *to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race.*

### **65 Signature and enrolment of Acts**

- (1) *An Act of Parliament referred to in section 64 (2) shall be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court in such official South African languages as may be required in terms of section 3, and copies of the Act so enrolled shall be conclusive evidence of the provisions of the Act.*
- (2) *In the case of a conflict between copies of an Act enrolled in terms of subsection (1), the copy signed by the President shall prevail.*

### **107 Languages**

- (1) *A party to litigation, an accused person and a witness may, during the proceedings of a court, use the South African language of his or her choice, and may require such proceedings of a court in which he or she is involved to be interpreted in a language understood by him or her.*

- (2) *The record of the proceedings of a court shall, subject to section 3, be kept in any official language: Provided that the relevant rights relating to language and the status of languages in this regard existing at the commencement of this Constitution shall not be diminished.*

**141 Signature and enrolment of provincial laws**

- (1) *A law of a provincial legislature referred to in section 140 (2) shall be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court in such official South African languages as may be required in terms of section 3, and copies of the law so enrolled shall be conclusive evidence of the provisions of such law.*
- (2) *In the case of a conflict between copies of a law enrolled in terms of subsection (1), the copy signed by the Premier shall prevail.*

Sections 46 (1), 53 (1) and 106 of the transitional Constitution stipulate that the National Assembly and the Senate shall sit in Cape Town and that the Constitutional Court shall sit in Johannesburg and the Appellate Division of the Supreme Court in Bloemfontein, respectively.

Constitutional Principles I, XVIII (1) and (3) are relevant to name, symbols and national territory, as follows:

I

*The Constitution of South Africa shall provide for the establishment of one sovereign state, a common South African citizenship and a democratic system of government committed to achieving equality between men and women and people of all races.*

XVIII

1. *The powers and functions of the national government and provincial governments and the boundaries of the provinces shall be defined in the Constitution.*
3. *The boundaries of the provinces shall be the same as those established in terms of this Constitution.*

Relevant sections of the transitional Constitution in this regard are:

## **1 Republic of South Africa**

- (2) *The national territory of the Republic shall comprise the areas defined in Part 1 of Schedule 1.*

## **2 National symbols**

- (1) *The national flag of the Republic shall be the flag the design of which is determined by the President by proclamation in the Gazette.*
- (2) *The national anthem of the Republic shall be as determined by the President by proclamation in the Gazette.*
- (3) *The coat of arms of the Republic and the seal of the Republic under the previous Constitution shall be the national coat of arms of the Republic and the seal of the Republic under this Constitution.*

## **124 Establishment of provinces**

- (1) *The following provinces are hereby established, which for the purposes of this Constitution, but subject to subsection (2), shall be recognised as the provinces of the Republic:*
- (a) *Eastern Cape;*
  - (b) *Eastern Transvaal;*
  - (c) *Natal;*
  - (d) *Northern Cape;*
  - (e) *Northern Transvaal;*
  - (f) *North-West;*
  - (g) *Orange Free State;*
  - (h) *Pretoria-Witwatersrand-Vereeniging; and*
  - (i) *Western Cape:*

*Provided that Parliament shall at the request of a provincial legislature alter the name of a province in accordance with the request of such legislature.*

- (2) *The areas of the respective provinces shall be as defined in Part 1 of Schedule 1: Provided that the establishment of the Northern Cape as*

*a separate province, the establishment in the area of the Eastern Cape of one province, and the inclusion of the areas specified in paragraphs (a) to (f) and (i) to (n) of Part 2 of Schedule 1 within the provinces as defined in Part 1 of Schedule 1, shall be subject to alteration in accordance with this section.*

- (3) (a) *A referendum may be held in terms of this section in each of the areas specified in paragraphs (a) to (n) of Part 2 of Schedule 1 (hereinafter referred to as an affected area) to determine the views of the voters ordinarily resident in such area regarding an issue referred to in subsection (5) or (6).*
- (b) *A referendum referred to in paragraph (a) shall be held in an affected area within three months of the lodging with the Secretary to Parliament of a petition signed by persons entitled to vote and ordinarily resident in such area.*
- (c) *The number of signatures on such a petition shall be at least equal in number to such percentage of the votes recorded in terms of subsection (4) in respect of the affected area in question, as may be determined by the Independent Electoral Commission.*
- (d) *The Independent Electoral Commission shall not be dissolved in terms of the Independent Electoral Commission Act, 1993 (Act 150 of 1993), after the first election held under this Constitution until it has made a determination in terms of paragraph (c) in respect of all the affected areas.*
- (e) *Such a petition shall be lodged with the Secretary to Parliament within a period of six months of the commencement of this Constitution or a period referred to in subsection (10), whichever period expires first.*
- (4) *In the first election of the National Assembly and the provincial legislatures held under this Constitution, votes cast in each of the affected areas shall be counted separately and recorded for use for the purposes of this section.*
- (5) *Subject to subsection (7), the object of a referendum in respect of an area referred to in paragraph (e), (f), (g) or (h) of Part 2 of Schedule 1, shall be the determination of the views of voters ordinarily resident in such an area, concerning, as the case may be-*
- (a) *the continued inclusion of the area referred to in the said paragraph (e) in the provincial territory of the Eastern Cape, or its inclusion in the provincial territory of Natal;*
- (b) *the continued inclusion of the area referred to in the said paragraph (f) in the provincial territory of Pretoria-Witwatersrand-Vereeniging, or*



*its inclusion in the provincial territory of the Eastern Transvaal;*

- (c) the continued existence of the area referred to in the said paragraph (g) as one province, or its division into two separate provinces on either side of the line forming the eastern boundaries of the districts of Ventersdorp, Steynsburg, Hofmeyr, Tarka, Fort Beaufort, Albany and Bathurst; or*
- (d) the continued existence of the area referred to in the said paragraph (h) as a separate province, or its discontinuance as a separate province, in which event those districts of the said area north of the Orange River shall be included in the provincial territory of the North-West, and those districts south of the Orange River shall be included in the provincial territory of the Western Cape:*

*Provided that in the case of a referendum regarding an issue referred to in-*

- (i) paragraphs (a) and (b) of this subsection, a majority of votes cast shall be required to sanction the inclusion of the areas in question in the provincial territories of Natal or the Eastern Transvaal, as the case may be;*
  - (ii) paragraph (c) of this subsection, a majority of at least 60 per cent of the votes cast in either of the two blocks mentioned in paragraph (g) of Part 2 of Schedule 1 shall be required to sanction the division of the said area into two separate provinces; and*
  - (iii) paragraph (d) of this subsection, a majority of at least 60 per cent of the votes cast shall be required to sanction the discontinuance of the Northern Cape as a separate province.*
- (6) Subject to subsection (7), the object of a referendum in respect of an area referred to in paragraph (a), (b), (c), (d), (i), (j), (k), (l), (m) or (n) of Part 2 of Schedule 1, shall be the determination of the views of the majority of the voters ordinarily resident in such an area, concerning-*
- (a) in the case of the area referred to in the said paragraph (a), the continued inclusion of such area in the provincial territory of the Northern Transvaal, or its inclusion in the provincial territory of the Eastern Transvaal;*
  - (b) in the case of the area referred to in the said paragraph (b), the continued inclusion of such area in the provincial territory of the Northern Cape, or its inclusion in the provincial territory of the Western Cape;*
  - (c) in the case of the area referred to in the said paragraph (c), the continued inclusion of such area in the provincial territory of the Eastern Transvaal, or its inclusion in the provincial territory of the*

*Northern Transvaal;*

- (d) in the case of the area referred to in the said paragraph (d), the continued inclusion of such area in the provincial territory of the Eastern Cape, or its inclusion in the provincial territory of Natal;*
  - (e) in the case of the area referred to in the said paragraph (i), the continued inclusion of such area in the provincial territory of the Eastern Transvaal, or its inclusion in the provincial territory of Pretoria-Witwatersrand-Vereeniging;*
  - (f) in the case of the area referred to in the said paragraph (j), the continued inclusion of such area in the provincial territory of the Orange Free State, or its inclusion in the provincial territory of Pretoria-Witwatersrand-Vereeniging;*
  - (g) in the case of the area referred to in the said paragraph (k), the continued inclusion of such area in the provincial territory of the Western Cape, or its inclusion in the provincial territory of the Northern Cape;*
  - (h) in the case of the area referred to in the said paragraph (l), the continued inclusion of such area in the provincial territory of Natal, or its inclusion in the provincial territory of the Eastern Cape;*
  - (i) in the case of the area referred to in the said paragraph (m), the continued inclusion of such area in the provincial territory of the Northern Cape, or its inclusion in the provincial territory of the North-West; or*
  - (j) in the case of the area referred to in the said paragraph (n), the continued inclusion of such area in the provincial territory of the North-West, or its inclusion in the provincial territory of Pretoria-Witwatersrand-Vereeniging.*
- (7) (a) The Independent Electoral Commission shall be competent to make regulations or give directions concerning the implementation of this section, including-*
- (i) the formulation of the question to be put before the electorate in any particular referendum;*
  - (ii) the determination of the sequence of referendums with reference to a province in respect of which more than one petition contemplated in subsection (3) (e) or (10) is received;*
  - (iii) the drawing up and registering of party lists for an affected area;*
  - (iv) the identification of persons entitled to vote in a referendum or*

*election held in terms of this section;*

- (v) *procedures relating to the drawing up of petitions for the purposes of this section; and*
- (vi) *any other matters which it considers necessary for such implementation.*
- (b) *This subsection shall come into operation on the date of promulgation of this Constitution.*
- (8) *A party or parties representing a majority of voters in an affected area may within a period of one month of the date of the first election under this Constitution of members of the provincial legislature of the province within which such area falls in terms of Part 1 of Schedule 1, petition the Independent Electoral Commission to publish a notice in terms of subsection (9).*
- (9) *If a petition is lodged with the Independent Electoral Commission in terms of subsection (8), requesting that an affected area be altered as contemplated in subsection (5) or (6), and the Independent Electoral Commission is satisfied that the petition has the support of a party or parties representing a majority of voters in that affected area, it shall forthwith cause to be published in the Gazette, notice of the fact that it has received such a petition.*
- (10) *Within five months of the date of publication of a notice referred to in subsection (9) a petition may be lodged with the Secretary to Parliament, calling for a referendum contemplated in subsection (3) to be held in the area in respect of which such notice was published.*
- (11) *If a petition for a referendum as provided for in subsection (10) is lodged with the Secretary to Parliament, the petition lodged with the Independent Electoral Commission under subsection (8) will lapse, and the result of the referendum in respect of such area will be decisive.*
- (12) *If a petition for a referendum as provided for in subsection (10) is not lodged with the Secretary to Parliament within the period referred to in that subsection, the Independent Electoral Commission shall, upon the expiry of that prescribed period, forthwith cause to be published in the Gazette, notice of that fact, and the alteration contemplated in the notice published in terms of subsection (9) shall thereupon be implemented in accordance with subsection (13).*
- (13) (a) *For the purpose of implementing an alteration in terms of subsection (12), or an alteration pursuant to a referendum held in terms of subsection (3), the Independent Electoral Commission shall, if it considers it necessary to do so as a result of an alteration to be made, give directions concerning-*

- (i) *the establishment of a new provincial legislature or the reconstitution of an existing provincial legislature;*
  - (ii) *the holding of an election of a new or reconstituted provincial legislature;*
  - (iii) *the allocation of seats within such new or reconstituted provincial legislature; and*
  - (iv) *the names of the persons who will become or remain members of such provincial legislature.*
- (b) *The Independent Electoral Commission shall for the purposes of any directions under paragraph (a) have regard to-*
- (i) *representations made to it by political parties who will or may be affected by any such directions;*
  - (ii) *party lists compiled by parties for the purpose of the election of the provincial legislatures which will be dissolved or reconstituted;*
  - (iii) *party lists compiled pursuant to any regulation made or directions given by it in terms of subsection (7);*
  - (iv) *the provisions of Schedule 2 (without necessarily being bound thereby in regard to the sequence in which seats are to be awarded or forfeited); and*
  - (v) *all other factors which in its opinion are relevant to such directions:*

*Provided that if it is of the opinion that any particular alteration does not require an existing provincial legislature to be reconstituted, it may direct that notwithstanding such alteration, such provincial legislature shall not be reconstituted.*

- (c) *If a Premier, member of the Executive Council of a province, senator or other officer has been elected, appointed or nominated in terms of this Constitution by the members of any provincial legislature affected by directions given by the Independent Electoral Commission in terms of paragraph (a), the Independent Electoral Commission may also give directions that new elections, appointments or nominations be made, in which event such elections, appointments or nominations shall be carried out in accordance with this Constitution, and within such times as the Independent Electoral Commission may prescribe.*

(14) *The President shall by proclamation in the Gazette, to take effect on*

*such date as may be determined by the Independent Electoral Commission, amend Subsection (1) and Schedule 1 to give effect to any alteration made in terms of this section.*

- (15) *Notwithstanding the provisions of section 62, Parliament may by a majority of votes in each House, effect consequential amendments to this Constitution arising out of any alterations to provinces or provincial boundaries, or directions given by the Independent Electoral Commission in terms of this section.*

**248 National flag and anthem**

- (1) *The State President may at any time before the commencement of this Constitution or while continuing in office in terms of section 235 (1) (a), exercise, on the advice of the Transitional Executive Council, the powers conferred upon the President by section 2 (1) and (2), and if the State President in the exercise of such powers issues a proclamation referred to in that section, such proclamation shall for all purposes be deemed to form part of this Constitution.*
- (2) *This section shall come into operation on the date of promulgation of this Constitution.*

## **PART TWO**

### **AGENDA ITEM 10: LANGUAGES**

#### **A. GENERAL DISCUSSION OF THE MATERIAL**

The parties put forward their views on this matter directly and in some detail. As will be seen, there are essentially two approaches, which overlap in several respects: those parties who wish the present constitutional dispensation to continue, with official, full and equal status being accorded to eleven languages, emphasising multi-lingual awareness and education as a means to cultural enrichment, human dignity and national unity, while acknowledging that national and provincial governments may explore practical mechanisms to rationalise languages in the context of official means of communication (the ACDP, ANC, NP and PAC); and those parties who propose the constitutional recognition of all eleven languages, but who advocate that only some of the languages ought to be regarded realistically as the languages of government (DP and FF). Discussion of submissions re-emphasised the emotive nature of the subject matter.

#### **B. NON-CONTENTIOUS ISSUES**

- 1) The Constitution should formally recognise Afrikaans, English, isiNdebele, Sesotho sa Leboa, Sesotho, siSwati, Xitsonga, Setswana, Tshivenda, isiXhosa and isiZulu as the national languages of South Africa.
- 2) Every person should have the right to use one of the above languages in communication with government and in the courts.
- 3) While acknowledging (2), the national and provincial governments should have the power to designate certain of the above languages as official means of communication, and to devise practical mechanisms in this regard.

#### **C. CONTENTIOUS ISSUES**

- 1) In the light of the non-contentious issues above, disagreement exists on the necessity of constitutional regulation of point (3) i.e. a more limited range of languages as the means of official communication. The DP proposes the six most commonly-spoken languages in the National Assembly, while the FF does not commit itself to any particular number. These parties motivate their view as follows: equality of linguistic status in a formal constitutional sense cannot be a realistic objective, leading to the de facto domination of a few languages or even one - it is therefore better to entrench and develop the languages used most, nationally and regionally. The other parties resist this potential diminution in formal status of some languages strenuously, arguing that equal recognition of all eleven languages marks an historic moment of reconciliation and the recognition of human dignity and cultural

diversity in South Africa, which is vital to the development of a rich national heritage.

- 2) The NP proposes that the status of Afrikaans and English and any other languages as envisaged in Section 3 (2) of the 1993 Constitution should not be diminished.

## **AGENDA ITEM 12: NAME, SYMBOLS AND NATIONAL TERRITORY**

### **A. GENERAL DISCUSSION OF THE MATERIAL**

In regard to the issues falling under this agenda item, the political parties have generally put forward simple points of view expressed clearly, with some exceptions. There were, too, very large numbers of submissions from the public on these matters.

### **B. NON-CONTENTIOUS ISSUES**

#### **i) Name**

All parties except the PAC support the retention of the name "Republic of South Africa". The PAC assumes that because this name is "entrenched in the interim constitution", it is constrained in proposing a change, a question which it feels ought to be canvassed generally among the electorate. However, the PAC proposes no alternative name.

#### **ii) National Territory**

All parties endorse the current national territory, as reflected in section 1(2) and Schedule 1 to the 1993 Constitution.

### **C. OUTSTANDING ISSUES**

#### **i) Anthem**

All parties except the ANC support the retention of the current situation, with some reservations and qualifications, as follows:

**ACDP:** Desires Die Stem and Nkosi Sikilele iAfrika to be sung without trying to combine them.

**DP and NP:** Support the "official" shortened version of the two anthems as presented by Prof Khumalo.

**FF:** Prefers the "two national anthems" without stipulating the full or the combined versions.

PAC: As with all symbols, it "does not have any problem with the process that is managed by the CA" in this regard.

The ANC proposes that this issue be referred to the Constitutional Committee.

ii) **Flag**

All parties except the ANC endorse the current flag. The ANC has opted to reserve its position as to the current flag and recommends that this issue be referred to the Constitutional Committee.

D. **CONTENTIOUS ISSUES**

i) **Name**

None

ii) **Coat of Arms (including the Seal)**

All parties except the DP and ANC support the retention of the existing coat of arms and seal. The DP and the ANC propose that a suitable mechanism be established to determine a new coat of arms and seal acceptable to most South Africans.

iii) **Anthem**

Whether there should be a shortened combination of the current anthems, and what it should be.

iv) **Flag**

None

v) **National Territory**

Whether international law aspects, such as territorial waters, should be included in the Constitution. The NP proposes that such matters be regulated by legislation, while the ANC appears to propose their inclusion in the Constitution.

vi) **Symbols generally**

The FF proposes that provinces be empowered to adopt provincial symbols.



## **AGENDA ITEM 13: SEATS OF GOVERNMENT**

### **A. GENERAL DISCUSSION OF THE MATERIAL**

The submissions from the political parties are marked by a lack of clarity and an unwillingness to adopt a position as yet. It is thus very difficult to define issues of agreement clearly.

### **B. NON-CONTENTIOUS ISSUES**

None of the parties expressed a view on the seats of the Appellate Division and the Constitutional Court, both of which are clearly within the jurisdiction of this Theme Committee. This issue will have to be resolved after considering the proposals of Theme Committee 5 in this regard, and will also need to take into account the final decision on the seat of the executive and the legislature.

### **C. OUTSTANDING ISSUES**

It is perhaps of greater assistance to summarise the parties' views on the issue of the seats of the legislature and the executive as follows:

- i) The ACDP and NP: no view expressed as yet.
- ii) ANC: believes that cost effectiveness and efficient government should be factors in this decision and that these matters should be referred to the Constitutional Committee for final decision.
- iii) DP: does not believe in the concentration of power in any region. As regards the national legislature, the decision should rest with the Constitutional Assembly, with the fullest information at its disposal, especially as to relative cost structures.
- iv) FF: would leave the decision to the conscience of its individual members.
- v) PAC: does not have sentiments and attachments, and is only interested in sound financial thinking and convenience in this regard.

**THEME COMMITTEE ONE**  
**ANALYTICAL SURVEY**

NO.	CONSTITUTIONAL PRINCIPLES	ISSUES	CONTENTIOUS ISSUES	NON-CONTENTIOUS ISSUES	OUTSTANDING ISSUES	REMARKS
1.	II, XI, XXII and XXXIV	Languages	<p>1. Constitutional regulation of official means of communication by government.</p> <p>2. The continuation in force of Section 3 (2) of the 1993 Constitution.</p>	<p>1. Formal recognition of all eleven languages.</p> <p>2. Right to use language in communication with government.</p> <p>3. Certain languages designated as official means of communication at national and provincial levels.</p>		Draft provisions to be drawn up by TC1.

2.	I, XVIII(1) and (3)	Name, Symbols, National Territory	<p>1. A mechanism should be established to consider a new Coat of Arms and Seal.</p> <p>2. Whether and how the anthems should be combined and shortened.</p> <p>3. Whether international law aspects relating to national territory should be regulated in Constitution.</p> <p>4. Whether provinces should be empowered to adopt own symbols.</p>	<p>1. Republic of South Africa should be retained.</p> <p>2. Current national territory should be retained.</p>	<p>1. National Anthems</p> <p>2. Flag</p>	Draft provisions to be drawn up by TC1
3.		Seats of Government		1. No views on seats of the national courts.	<p>1. Whether the national legislature and executive should be combined.</p> <p>2. Factors to be taken into account in deciding this issue and nature of information available.</p>	

**FIRST DRAFT - 17 AUGUST 1995**  
**Status: Prepared by Technical Advisors**  
**Instruction by Theme Committee**

**A. Languages**

- (i) Afrikaans, English, isiNdebele, Sesotho sa Leboa, Sesotho, siSwati, Xitsonga, Setswana, Tshivenda, isiXhosa and isiZulu shall be the national languages of South Africa.
- (ii) Every person shall have the right to use one of the national languages in communication with government and in the courts.
- (iii) With due recognition of (ii) above, the national and each provincial government may designate certain of the national languages as the official means of communication within its sphere of competence, and may devise practical mechanisms to implement such designation.

**B. Name and National Territory**

- (i) The state shall be called the Republic of South Africa.
- (ii) The national territory of the Republic shall comprise the areas which formed the Republic of South Africa on 27 April 1994, including all islands and waters deemed to be part of such areas.

***CONSTITUTIONAL ASSEMBLY***

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

***REPORT ON BLOCK 8:***

***FOREIGN RELATIONS AND  
INTERNATIONAL LAW***

***28 AUGUST 1995***

**REPORT FROM THEME COMMITTEE ONE**

**BLOCK 8: FOREIGN RELATIONS AND INTERNATIONAL LAW**

**31 JULY 1995**

**PART ONE**

- A) Summary Overview of submissions received and processed by Theme Committee One from sources outside the Constitutional Assembly (Vol 23 and 25) - see attachment.
- B) The Technical Committee conducted an Orientation Workshop on 29 May 1995 - before parties made their submissions on the subject matter of this Block - for which purpose the attached Briefing Document was compiled.
- C) Public Participation Programme:
- None of the submissions received from the public during the CPMs was relevant to the agenda item being dealt with by the Theme Committee in Block 8.
- D) No public hearings were held on this agenda item.
- E) The following Constitutional Principles refer:

*I*

*The Constitution of South Africa shall provide for the establishment of one sovereign state, a common South African citizenship and a democratic system of government committed to achieving equality between men and women and people of all races.*

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*XXI(3)*

*Where there is necessity for South Africa to speak with one voice, or to act as a single entity - in particular in relation to other states - powers should be allocated to the national government.*

**PART TWO**

**AGENDA ITEM 11: FOREIGN RELATIONS AND INTERNATIONAL LAW**

**A. GENERAL DISCUSSION OF THE MATERIAL**

There appears to be widespread support for the notion that South Africa must take its rightful place in the international community and become a party to international human rights conventions. Parties generally emphasise the importance of adherence to public international law in all spheres of state activity and the need for Parliamentary involvement in respect of approval for and incorporation into national law of international treaties to which the Republic may become a party.

Again some parties emphasised certain issues which were not referred to by others and a number made no or few specific proposals regarding the current and suggested future constitutional provisions canvassed in the Briefing Document and the contribution by Professor D J Devine. The division into "*non-contentious*" and "*contentious*" issues is thus complicated. However, since the Briefing Document deals extensively with all pertinent issues and had been at the disposal of the various parties, it can be assumed that matters raised therein with which issue has not been taken by any party can safely be regarded

as "*non-contentious*".

**B. NON-CONTENTIOUS ISSUES**

- I) Although the way in which the President will in future be required to exercise his powers may vary, he should in principle retain the powers currently provided for in section 82(1)(f) and (i) namely -
  - (a) to appoint, accredit, receive and recognise ambassadors, plenipotentiaries, diplomatic representatives and other diplomatic officers, consuls and consular officers; and
  - (b) to sign (not negotiate) international agreements.
  
- II) The President should remain the Commander-in-Chief of the National Defence Force as currently provided for in section 82(4)(a) of the Constitution.
  
- III) The President should continue to have authority as currently provided for in section 82(4)(b) of the Constitution -
  - (a) to employ the National Defence Force in accordance with and subject to provisions similar to those provided for in sections 227 and 228 of the Constitution; and



- (b) to confer upon members of the National Defence Force permanent commissions and cancel such commissions.

IV) As currently provided for in sections 227(1)(a) and (b), (2)(a)(i), (ii) and (iii), (d) and (e) the National Defence Force -

(1) may, subject to the Constitution, be employed -

- (a) for service in the defence of the Republic, for the protection of its sovereignty and territorial integrity;

- (b) for service in compliance with the international obligations of the Republic with regard to international bodies and other states,

(2) shall -

- (a) exercise its powers and perform its functions solely in the national interest by -

- (i) upholding the Constitution;

- (ii) providing for the defence of the Republic;  
and

(iii) ensuring the protection of the inhabitants of the Republic,

in accordance with the Constitution and any law,

(3) not breach international customary law binding on the Republic relating to aggression; and

(4) in armed conflict comply with its obligations under international customary law and treaties binding on the Republic.

V) The checks and balances currently provided for in section 228(4) and (5) are regarded as acceptable.

(1) Subsection (4) provides that -

(a) the President must, when the National Defence Force is employed for service, inform Parliament of the reason for such employment; and

(b) in the case of employment referred to in section 227(1)(a) or (b) and if Parliament is not sitting, the President must summon the appropriate joint

standing committee of Parliament to meet expeditiously, but not later than 14 days after the commencement of such employment, and must inform the committee of the reasons for such employment.

(2) Subsection (5) provides that Parliament may by resolution terminate any employment referred to in section 227(1)(a), (b) or (e), without such termination affecting the validity of anything done in terms of such employment to the date of such termination, or any right, privilege, obligation or liability acquired, accrued or incurred as at the said date under and by virtue of such employment.

VI) Subject to the proviso that in subsection (1) the reference to the current Constitution should become a reference to the final Constitution and that more appropriate and practical provision should be made for Parliamentary approval for and incorporation into national law of international treaties in accordance with the remarks contained in the Briefing Document as well as those contained in Professor Devine's contribution, a section similar to the current section 231 which deals with the status of international law and the conclusion and incorporation of international treaties, should be retained.

VII) If possible all other relevant sections should be improved upon from a

drafting point of view.

C. **CONTENTIOUS ISSUES**

The conditions under which the President may declare a state of National Defence. All parties except the ANC support the provision as reflected in section 82(4)(b)(i) which provides that the President may do so "*with the approval of Parliament*". The ANC maintains that these powers should be exercised "*subject to parliamentary ratification*".

D. **ADDITIONAL ASPECTS**

The following additional aspects were raised by the parties concerned:

**ACDP:** Proposes that the new Constitution, in line with the right of access to information, should require of the national government to also include citizens in its decision-making regarding the conclusion of international agreements since they could have a direct or indirect influence on individuals in the country. Openness in international dealings is also called for.

**ANC:** Advocates that South Africa must lead the way in the international promotion of human rights and where possible seek to achieve the peaceful resolution of conflicts. Important decisions need to be taken by the President in consultation with the Cabinet and his functions and powers should be determined by the Constitution or Parliamentary legislation. The President

should have power over and have ultimate responsibility in respect of the intelligence services and be accountable to Parliament in respect of all matters concerning such services.

**DP:** Raises the question as to the desirability or otherwise of the inclusion of a section in the Constitution dealing with international law but makes it clear that it is not opposed to such inclusion.

**NP:** Makes the point that the royal prerogatives previously contained in the South African Constitutions have been replaced by the provisions of section 82. There is consequently no need to retain these prerogatives. Stresses that the South African National Defence Force should not breach binding international customary law relating to aggression and that it should in armed conflict comply with binding international customary law and treaties. The retention of a section similar to section 231 is regarded as of vital importance. Raises as ancillary matters the desirability of the retention of section 218(1)(e) of the Constitution which provides that the National Commissioner of the SAPS shall be responsible for international police liaison and section 116(2) which provides that the Human Rights Commission must report to a relevant legislature any legislation which may be contrary to the relevant norms of international human rights law.

**PAC:** Emphasises the judicial sanctity of *jus cogens* (the highest principles of law recognised by civilised nations) and the importance of adherence to public international law generally.

**Analytical Survey of Report by Theme Committee One on Block 8 -  
Foreign Relations and International Law**

Constitutional Principles	Contentious Aspects	Non-contentious Aspects	Remarks
I, XXI(3)	Necessity for approval of Parliament before state of National Defence declared	<ol style="list-style-type: none"> <li>1) Powers of the President regarding South African representatives abroad and foreign representatives in South Africa and in respect of international agreements -----</li> <li>2) President to be Commander-in-Chief of National Defence Force -----</li> <li>3) President's authority in respect of the deployment of the National Defence Force -----</li> <li>4) Purposes for which the National Defence Force may be employed -----</li> <li>5) Checks and balances in respect of the employment of the National Defence Force -----</li> <li>6) The status of international law, the conclusion of treaties and the incorporation of the terms thereof -----</li> <li>7) If possible, relevant sections should be improved from a drafting point of view</li> </ol>	Drafting of a new section is required

**PROPOSED NEW TEXT FOR THE CURRENT SECTIONS 82(1)(i) AND 231**

**82(1)** The President shall be competent to exercise and perform the following powers and functions, namely -

(i) to sign international agreements;

**231(1)** All rights and obligations under international agreements which immediately before the commencement of this Constitution were vested in or binding on the Republic within the meaning of the previous Constitution, shall be vested in or binding on the Republic under this Constitution, unless provided otherwise by an Act of Parliament.

(2)(a) All international agreements to which the Republic becomes a party shall be laid on the Tables of the respective Houses of Parliament within fourteen days of the Republic having become a party thereto if Parliament is then in session, or if Parliament is not in session, within fourteen days after the commencement of its ensuing session.

(b) International agreements shall be binding on the Republic unless and until Parliament by resolution passed within fourteen days of an agreement having been tabled, determines otherwise.

(c) A resolution of the nature contemplated in paragraph (b) shall not affect the validity of anything done in terms of such agreement up to the date of the resolution, which shall be the date on which it was adopted by the last of the

2 /.....

two Houses of Parliament, or any right, privilege, obligation or liability acquired, accrued or incurred as at the said date under and by virtue of such agreement.

- (3) Notwithstanding the provisions of subsection (2), provisions of international agreements shall form part of the law of the Republic only to the extent to which such provisions have been incorporated by an Act of Parliament not inconsistent with this Constitution.
- (4) The rules of customary international law shall, unless inconsistent with this Constitution or an Act of Parliament, form part of the law of the Republic.





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30 May 1995

*Please keep on file to give to Enoch.*

## HSRC INVESTIGATION INTO NATIONAL SYMBOLS RGN-ONDERSOEK NA NASIONALE SIMBOLE

The Secretariat  
Constitutional Assembly  
P O Box 93380  
YEOVILLE  
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Dear Sir/Madam

### SUBMISSION ON NATIONAL SYMBOLS IN THE NEW CONSTITUTION

Attached is a submission on national symbols in the form of excerpts from the third report of the HSRC investigation which is nearing completion, entitled *A New Symbolic Order: National and Other Symbols of South Africa*. More information about the report and the investigation can be found in the attached Introduction to the report. Our previous two reports were used by decision makers to help them decide on interim national symbols.

The excerpts were chosen to reflect our latest findings on the perceptions and popularity of the three interim national symbols: the flag, anthem and coat of arms. On the basis of media analyses and surveys the following is clear:

- \* In the first year following their adoption, the new flag and the combined anthems have become very popular with most South Africans.
- \* Although it is too early to say what the public's reaction to the shortened version of the anthem will be, the popularity of the present combination would suggest that the shortened version will be even more acceptable since it retains the spirit of both anthems and is now also much easier to sing.
- \* Few people have any knowledge about the coat of arms and the emblems incorporated in it are not known. The decision to retain the old arms elicited almost no controversy in the media.

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## **INTRODUCTION**

### **0.1 BACKGROUND AND PROBLEM AREA**

In view of the drafting of a new constitution for South Africa in the near future, the urgent need for research on national symbols has become obvious. Such research is imperative for informed political decisions.

The importance of unifying national symbols was pointed out in the report of the HSRC Investigation into Intergroup Relations, completed in 1985 (HSRC, 1987). Following exploratory research on national symbols during 1991-1992, the present HSRC investigation was launched at the beginning of 1993. This project was initiated and funded by the Council as an independent venture, with the intention of serving the interests of all South Africans.

The need for research on the subject was stressed repeatedly at a workshop "Towards a National Policy for Monuments, Museums and National Symbols" held in Bloemfontein on 18 and 19 March 1992. The workshop was organised by the ANC and attended by representatives of the Department of National Education, the HSRC and many conservation bodies and university departments. Consensus was reached that decisions on future policy and symbols should be taken as democratically as possible and only after a process of consultation with a variety of interested parties.

The HSRC felt that not only official symbols such as the national flag and anthem should be investigated, but also informal symbols of a national nature, such as geographical names and various emblems. Research on monuments, musea, memorials, landmarks, and so on is already being undertaken by institutions concerned with conservation and the field will accordingly not be investigated in depth in this research programme.

The projects will all be largely descriptive and analytic - they will not be aimed at influencing the democratic processes of decision making, but rather at supplying the necessary historical, contextual, heraldic and other information on which informed decisions can be based.

### **0.2 RESEARCH DESIGN**

#### **0.2.1 OBJECTIVES OF THE RESEARCH PROGRAMME**

- \* To analyse national symbols within their historical, cultural, political, social and other contexts.
- \* To clarify concepts and definitions related to symbols and present criteria for the evaluation of national symbols.
- \* To survey representative segments of the entire population with a view to eliciting their opinions on existing and possible new symbols and the bases of symbols, such as colours.

- \* To make recommendations regarding the strategies and conditions for decision-making processes concerning symbols, also based on the experience in other relevant countries, especially in Africa.

### **0.2.2 OBJECTIVES OF THE FIRST PROJECT**

- \* To analyse the existing national symbols within their historical and other contexts.
- \* To supply information regarding symbols and national symbols in general.
- \* To identify problems and areas for further research regarding the existing symbols.

### **0.2.3 CONTENT AND AREAS OF THE RESEARCH PROGRAMME**

- \* Categories of symbols, their nature, functions, heraldic background, history and contemporary significance.
- \* The position of official symbols within a constitutional context, in comparison with the situation in other countries.
- \* The meaning and acceptability of particular symbols, tested among a cross-section of the population, and taking into account the perceptions and wishes of specific cultural and other groups.
- \* Ways in which symbols are used and can be made acceptable through democratic decision-making processes.

### **0.2.4 RESEARCH PHASES**

- \* Phase 1 consisted of broad descriptive and historical analyses, focusing on the present South African national flag, anthem, fauna and flora emblems, and coat of arms.
- \* Phase 2 will consist mainly of surveys aimed at gleaning the views of the population on the subject. Other symbols of national significance such as public holidays and geographical names will also be investigated at this stage (see the list of possible symbols to be included in Section 3.5). Various political role players will be consulted about the nature and content of the surveys.
- \* During the third phase particular problems concerning the introduction of new symbols will be addressed, such as ways to introduce new symbols and avoid conflict, and the implications for regional symbols.

### **0.2.5 RESEARCH TEAM AND COMMITTEES**

The research is guided by a broadly representative Advisory Committee, with assistance given to the HSRC research team by heraldic and academic experts. The team liaised with the Bureau of Heraldry, the Office of the State President, the Departments of

Constitutional Affairs, National Education and Home Affairs, other organisations that have relevant information, and community representatives.

The HSRC Planning Committee for the project consisted of the following members of the Social Dynamics Group: Dr Charles Malan (programme leader), Mr Patrick Molatedi, Dr Karel Prinsloo, Dr Nic Rhoodie, Mr Jabu Sindane and Dr Gerhard-Mark van der Waal. The Advisory Committee was represented by Dr Bok Marais, Prof. Lawrence Schlemmer and Dr Arie Oberholster.

#### **0.2.6 ADVISORY COMMITTEE**

The following individuals were invited to serve on the Advisory Committee, in their personal capacity:

Dr Bok Marais (Vice-President: Research Development, HSRC - chairperson)  
Prof. Sol Chapole (Head, Department of African Languages, Vista University)  
Mr Ernst de Jong (Director, Ernst de Jong Studios, Pretoria)  
Prof. Pieter Kapp (Department of History, University of Stellenbosch)  
Prof. James Khumalo (Department of African Languages, University of the Witwatersrand)  
Ms Marilyn Martin (Director, South African National Gallery, Cape Town)  
Dr Arie Oberholster (Acting General Manager, Social Dynamics Group, HSRC)  
Prof. Nina Overton (Department of Communication Science, Rand Afrikaans University)  
Prof. Lawrence Schlemmer (Vice-President: Research, HSRC)  
Prof. Herbert Vilakazi (Head, Department of Sociology, University of Zululand)

The above people were invited to become members of the committee on the basis of their expertise in the areas of cultural, communication, historical and related disciplines - they were not approached to represent communities or organisations. The committee commented on the research planning and this report in draft form, but they can in no way be held responsible for the content or findings of the investigation.

#### **0.2.7 THEORETICAL CONSIDERATIONS**

In view of the interdisciplinary nature of the research, contributors were not requested to adhere to any particular theoretical paradigm. Most of the contributions in this report are historical analyses. The discussions of symbols and related systems of signification were largely informed by cultural theory, as it has been developed within the field of contemporary cultural studies, and theories of semiotics.

#### **0.2.8 CONSULTATION AND THE DISSEMINATION OF RESEARCH FINDINGS**

All political groups, major cultural organisations, other interested groups and members of the public were invited to send submissions on existing and alternative symbols to the Research Committee. Letters of invitation for submissions were sent to the largest organisations and the invitation was also included in the media release in which the research programme was announced. The Research Committee has already received a number of submissions from organisations and individuals - these will be considered

during the next stages of the research and, where feasible, will be summarised or included as appendices in the following reports. Eventually they will all be submitted to the decision-making authorities who will decide on future symbols. The HSRC will obviously not evaluate proposals for alternative symbols.

The reports will be made available to all political interest groups, and the research findings will be widely disseminated. At least three reports will be written, as well as articles, memoranda and guides to introduce the various symbols.

### **0.3 GENERAL CONSIDERATIONS GUIDING THE RESEARCH**

The following general considerations were decided on by the Planning Committee and included in the media release that announced the research programme:

- \* The research will be for the benefit of the whole population and the results will be available to all. Care will be taken to ensure that no particular interests are promoted and that no groups are excluded as far as submissions are concerned.
- \* All groupings should be given the opportunity to participate in democratic decision making concerning new national symbols. This is essential for the larger process of nation building as every citizen has an interest in such symbols.
- \* The research will form part of a comprehensive process of information dissemination, making people aware of the issues and debating these issues.
- \* The whole area of investigation will be approached holistically. Symbols have both positive and negative significance for different observers - problems with perceptions should not be avoided but rather be addressed frankly.

### **0.4 CONSIDERATIONS REGARDING THE NATURE AND CONTENT OF THIS REPORT**

In spite of the lengthy debates on South Africa's national symbols which have been conducted for many years in the media and in parliament, remarkably few comprehensive studies and publications on the subject are available. For the purposes of this project, it was therefore decided to supply basic information on the nature and functions of symbols and national symbols in general, and then to focus on the present national symbols of the Republic of South Africa.

Unless other distinctions are made (see a.a), in this report, South African "national" symbols will generally refer to (a) those official symbols proclaimed and controlled by the state (the national flag, anthem and coat of arms), and (b) other symbols recognised by a considerable section of the population as being "national". The latter group will include the national flora and fauna emblems, which have not been proclaimed by law and are not registered by the Bureau of Heraldry, and the anthem "Nkosi Sikelel' iAfrika" which for many years has been described as "the Bantu National Anthem" (Shaw, Coleman and Cartledge, 1975:472; Loots, 1985:35) or the "Pan-African anthem especially among the southern Bantu" (Boyd, 1980:47).

In view of the long struggle for recognition of some of the present symbols, particularly of the national flag and anthem, a historical perspective is essential within this investigation. The only comprehensive historical survey of the visual symbols, however, is at present still unpublished, namely F.G. Brownell's **National and Provincial Symbols and Flora and Fauna Emblems of the Republic of South Africa**. Large sections of the historical overviews in this report are based on this manuscript.

## **0.5 CRITICAL EVALUATION AND THE POSITION OF ALTERNATIVE SYMBOLS**

Since the purpose of this report is to present only historical and contextual information on the present symbols and to identify the main problem areas for further investigation, no attempt was made to analyse the proposals for alternative symbols or to reflect fully the recent debates. This critically important area will be covered during the second phase of the study.

The fact that only existing national symbols have been singled out in this report does not imply any kind of evaluation of their status by the researchers or the Advisory Committee. Moreover, any important features that have not been dealt with in this report, can still receive attention during the following phases.

## **0.6 REPRESENTATIVENESS IN THE RESEARCH PROCESS**

It was considered essential that all contributions and submissions, particularly by marginalised and disadvantaged groups, should be accommodated. Specifically the views of illiterate people, who constitute 55 % or more of the population (depending on the definition of illiteracy), should be taken into account. Written submissions will form a relatively small proportion of the information gathered. The invitation to submit contributions was intended to give all organisations, and (literate) individuals, the opportunity to express their views in writing. Illiterate people will be consulted mainly through individual and focus group interviews. The HSRC has considerable experience in conducting this kind of survey in rural areas and in the townships, also among squatters.

It is obvious that visual symbols will play a crucial role, particularly for illiterate people, during the transitional and election processes in the country. Flags, colours, badges and emblems (also on ballot papers) will be symbolic shorthand for millions of people.

Taking into account the need for relevant research expertise, it was also agreed that the aim should be to reflect the symbolic weight of representativeness in the teams that conduct the research.

## CHAPTER 5

### SOUTH AFRICAN FLAGS

#### 5.1 INTRODUCTION

The adoption of a new interim South African national flag in 1994 was another episode in a long history of new flags replacing others in this country. Apart from the national anthem, no single symbol is able to rouse so many, often conflicting, emotions as a country's flag. Early South African visual symbols, including flags, have already been discussed in Section 3.4. In this chapter, flags in general will be looked at briefly before the flags of the Union are surveyed. Most of the historical survey will be devoted to the national flags since 1928. Finally, the present national flag will be discussed — an illustration of the flag can be seen in Appendix B.

## 5.7 INTERPRETATION OF THE NEW NATIONAL FLAG

*Charles Malan*

### **The absence of fixed meanings**

The state herald, Mr Fred Brownell, has repeatedly explained in the media that no fixed meaning can be attached to the colours or composition of the new flag. In the above analysis of symbolic meaning it was stressed that meaning is attached only through contextualisation, convention, and so on. Popular interpretation of the new flag will no doubt eventually attach some more or less fixed meanings to the features of the flag.

On the basis of flag conventions and the long tradition of South African flags it is, however, possible to venture some preliminary interpretations. It may well be that the interpretations presented below differ from popular perceptions.

### **Composition**

In the composition of the new flag the old and the new have been effectively combined. Although the design of the new flag is "revolutionary" in its use of the arrow-like green pall and black triangle, the well-known tricolour arrangement has basically been retained. The width of the pall with its white and yellow fimbriations is one third the width of the flag. The rectangular shape in the proportion of two in the width to three in the length is also conventional. The overriding impression of a red, green and blue arrangement is also in accordance with a traditional tricolour flag.

The design of the pall lends itself to the interpretation that two "streams" have been symbolically united in the New South Africa. These "streams" could represent Europe and Africa, the old and the new, even the white and black populations. This interpretation is complemented by the joining of two sets of colour combinations (red-white-blue and black-yellow-green) which will be discussed below. It is further echoed in the combination of the two national anthems which also represent two distinct traditions.

The tricolour arrangement can be seen as a fixed, conventional arrangement that represents tradition and stability (particularly in combination with the use of the "Western" colours red, white and blue). This stability is balanced by that of the triangle at the hoist, which is emphasised by the yellow fimbriation. A triangle is usually seen as a symbol of unity and strength.

The pall introduces a new and indeed revolutionary element. The arrow design is dynamic and indicates movement towards the right ("forward", as Western reading convention dictates). The "point" of the pall is the same length as the "arrow" triangle. The point therefore also indicates an element of stability and, with its length, continuity. The dynamic element is thus balanced by stability. To simplify the interpretation: the South African nation has been united, is moving forward into the future and has entered a period of stability and growth (growth is also emphasised by the symbolism of the colour green).



The overall composition is typical of distinctive indigenous African designs. Ndebele designs, in particular, favour the use of white lines to separate bright colours from each other. (The arrangement of the white fimbriations in the flag ensures that the composition will not be seen as representative of the Ndebele culture only.) Thus Western heraldic designs, in particular the tricolour, have been harmonised with African designs.

### **Colour arrangement**

Two sets of colours in the flag are divided by the white fimbriation. Together with the white, the red and blue form the well-known Western tricolour arrangement of red-white-blue. This is the arrangement of the Dutch flag which was so influential in the past in South African flag designs. Moreover, since the chili red contains an element of orange, the overall impression of the previous flag's combination of orange, white and blue has to some extent been retained.

The second, "new" set of colours is isolated by the pall, namely black, yellow and green. This is the exact combination of the original flags of the black freedom movements, in particular those of the two largest groups, the African National Congress (ANC) and the Inkatha Freedom Party (IFP). The ANC colours are therefore fully included in the present flag and, by means of the arrow arrangement, even "inserted" into the "old" flag. The IFP added white and red to their flag when they became a political party, in the same combination that is found in the upper half of the national flag. Thus both groups can "recognise" their own flags in the new combination.

### **A comparison of flag colours**

The flag colours of a political organisation become a powerful mobilising mechanism during an election because they immediately connote the organisation and a particular symbolism, even for illiterates. It is therefore evident that every organisation would like to see its colours reflected in the national flag. The use of well-known colours shared by a variety of organisations may be a powerful unifying force in itself. A survey of some of the largest organisations' flags shows a number of commonalities.

#### **(a) The ANC, IFP and PAC**

The ANC, the oldest political organisation in the country, first flew its flag in 1925. Green is for South Africa's fertile land, black for its people (in 1925 there were only black members) and gold for its wealth.

The PAC initially used the same flag, but broke away in 1959 and now uses a flag with embellishments: a map of Africa with a star over Ghana where black nationalism enjoyed its first success.

The IFP also used the same flag as the ANC, but in 1990 added red, for blood spilled, and white, for peace, when it became a political party.

**(b) AZAPO/Black Consciousness**

AZAPO's flag at the top has a golden triangle for the wealth of the country, a black triangle for the people and a red star in the gold for its commitment to socialism.

**(c) National Party**

An orange flag bearing a powder horn was used between 1948 and 1960. The NP used the colours of the previous national flag in their logo with the letters NP until 1993, then adopted a new flag with the colours blue, white and green, with a yellow sun (with red rays) imposed on it.

**(d) The "Africa freedom flag"**

After the liberation of Ghana in 1957 the Ghanaian flag with the colours gold, green and red became known as the Africa freedom flag. The colours are the most popular colour combination in Africa and are included in the flags of 17 countries. Ironically they are also the colours used in the shield of the South African coat of arms.

A survey of the colours most often used by South African organisations reveals the following:

Green and yellow/gold: ANC, PAC, IFP, NP, springbok colours, the Zionist Christian Church

Black and yellow/gold: PAC, ANC, IFP, AZAPO

Red: IFP, SACP, AZAPO, NP (the rays of the sun)

White: NP, IFP, the previous national flag

Blue: NP, the previous national flag

**The "rainbow flag" and its colours**

The general acceptance of the present flag can probably to a large extent be ascribed to the fact that it accommodates so many of the popular colour and composition combinations described above. Its six colours are too many for "a simple yet striking" design that is usually required for a flag. However President Nelson Mandela and Archbishop Desmond Tutu's reference to South Africa's "rainbow people" during the transition struck a responsive chord and the symbolism of a multicoloured nation is reflected in the colourfulness of the new flag.

Based on previous interpretations of South African flag colours and international conventions, some tentative interpretations of the colours in the new flag are presented below. Where applicable the interpretations refer to (a) South Africa's geographical features, (b) its people, (c) other concrete meanings, (d) abstract meanings such as values, and (e) heraldic meanings.

- Red:** Africa's sun; blood of the people spilled; the life-giving principle and highest power that controls the people's destiny; their passion and eagerness to serve their fatherland
- Green:** the country's fertile land and growth; its youth; its people's adaptability, freedom, health and hope
- Blue:** the country's skies and seas; the people's religious devotion, fidelity and steadfastness
- White:** the moon over Africa; the peace, purity and truth that should reign; the people's wisdom, innocence and joy
- Black:** the country's fertile soil; Africa's people and its nights, mourning for its lost children
- Yellow:** the rays of the African sun; gold and wealth of the African earth; the people's understanding, respect and virtue

## 5.8 ACCEPTABILITY OF THE FLAG

In his study of the flag controversy of the late 1920s, Saker (1980) stresses black opposition to the adoption of any new flag during the early days of the Union. Blacks had consistently voiced their opposition to the adoption of a flag in addition to or instead of the Union Jack (Saker, 1980:263), which they then regarded as the symbol of a political administration much more sympathetic to their cause than any of the white South African political parties participating in government. When the flag controversy reached its climax in 1927, a petition requesting the British monarch to prevent the introduction of a new flag was circulated among the black population. Although it collected some 97 000 signatures (Saker, 1980:264), it did not achieve its objective.

The South African flag has remained at the centre of the controversy that has raged around the national symbols. With South Africa's re-entry into the international sporting world after 1990, and with the amalgamation of most of the traditionally white sports bodies with their counterparts from the opposite side of the political spectrum, the use of the South African flag at sports meetings became problematic to say the least.

Debates on the old and new symbols were discussed in the previous chapter — consequently only a few representative reactions during the period before the adoption of the new flag will be discussed here.

The South African Football Association (SAFA) adopted their own flag and used it in March 1991 at international matches. Similarly, the South African Rugby Football Union used a flag of its own at international rugby matches, and an alternative flag was designed by NOCSA for the Olympic Games in 1992.

The reaction of some whites to the introduction of alternative flags was simply to wave the previous national flag more enthusiastically at sports meetings. At the same time Mr Ronnie Mapoena of the ANC's PWV Media Department stated that many people had no allegiance to the previous flag and anthem: "These symbols," he stated, "represent oppression and are a stark reminder of the reality that most South Africans still do not have a vote in the country of their birth" (*Mayibuye*, December 1991, 2 [11]:29).

The new national flag has been received with enthusiasm by people from all population and most political groups. Some of the reasons for this popularity could relate to the above interpretation of the symbolism and contextual meanings of the new flag.

## CONCLUSION

By the time the negotiations for a permanent new South African constitution were drawing to a close, the public debate and controversy about the new flag had all largely dissipated. When Freedom Day was celebrated on 27 April 1995 the proud display of thousands of flags by people from all sectors of South African society indicated the enormous popularity of the new flag. All surveys pointed to the overwhelming acceptance of the symbol. There are therefore no obvious reasons why it should be substituted or altered in a permanent new constitutional dispensation.

More than any other symbol the new flag symbolised South Africa's acceptance by the world community as it flew alongside the flags of other countries at the buildings of the United Nations, the Organisation of African Unity and other bodies. Countless replicas of the flag of all sizes have been distributed or sold in South Africa. It was waved at every opportunity during the visit of Queen Elizabeth II in March and April 1995. It has also appeared as bumper stickers, face paint decorations and on caps and T-shirts.

It seems that after all the bitter years of "flag struggles" South Africa has finally found a flag behind which its people can rally.

## **CHAPTER 6**

### **SOUTH AFRICAN NATIONAL COATS OF ARMS**

#### **6.1 INTRODUCTION**

The tradition of heraldry and the uses of coats of arms have been discussed in Sections 1.5 and 3.2. In the survey below the history of the national coat of arms, its legal and functional context, and the acceptability of the present coat of arms are considered. The national arms are illustrated in Appendix A.

## THE ACCEPTABILITY OF THE ARMS

In the large number of newspaper reports generated by the debate on national symbols during the recent past (i.e. roughly between 1990 and 1993), scant direct reference - positive or negative - to the acceptability of the coat of arms has been encountered. However it has been pointed out (Malan, 1992:17) that "the arms and their representation in seals are usually not seen by the people as 'their' symbol, but rather as a formal image of state administration used to legitimise documents, money, etc."

The national coat of arms has therefore not overtly or consciously been associated with, or implicated in, the heated public debate on the status of the national symbols in the transition to a new South Africa. This may seem curious, given the fact that the national arms are one of the most important national symbols, and have remained so over the 80 odd years of their existence and use.

The reason for the unscathed status of the national coat of arms may be that it has always represented a highly complex signal that needs a considerable degree of patience and knowledge to analyse and appreciate properly, a fact precluding the involvement of the general public. Its use has also been limited to official contexts, i.e. to contexts with no overt political quality, so that the public perception of the symbol has not been politically mobilised.

Since there has been so little debate on the coat of arms in the media, reference will be made here to the interviews and surveys conducted in August 1993 for the second HSRC report on national symbols (Malan, 1993b:16-37). The National Party offered no proposals on the arms and said decisions on the matter should be left to the negotiating process. Mr Olaus van Zyl of the NP did not foresee any problems in maintaining the name "Republic of South Africa" on the Great Seal. The creed "Ex Unitate Vires" would reinforce the process of nation building.

Prof. Temba Sirayi of the ANC referred to his discussion paper on ANC policy as the party's official policy proposals. These sections dealing with national symbols and heraldry did not contain recommendations on the coat of arms. In Section 3.5 of the paper it is stated that the ANC believes that "heraldry and national symbols in apartheid South Africa foster apartheid ideology and serve sectarian interests and values. The majority of South Africans do not identify with or bear allegiance to the current heraldic and national symbols because they represent oppression, dispossession, domination and disenfranchisement". ANC policy will provide for mechanisms for democratic re-assessment of the current heraldic and national symbols, new symbols "that are representative and reflect the interests and values of a democratic South Africa" and democratic mechanisms for decision making.

Dr J.N. Reddy, MP, leader of the Solidarity Party, felt that arguments about minor details in the coat of arms served no purpose. The design of the arms should be left to independent experts who were in the best position to create something new and to bring together various traditions. The immigrants who contributed to the country should be accommodated in the symbolism of the arms. Mr Schalk Burger of the Afrikaner-Volksunie (AVU) felt that the arms were aesthetically old-fashioned. However acceptance of new arms would depend on how this symbol was changed. Unlike some other Afrikaner parties, the AVU did not feel strongly about antiquated symbols such as the ox wagon, and the heavy, ornate design of the

current coat of arms.

During the various regional focus group interviews with widely representative young people, academics, teachers, and others there was general consensus that the coat of arms was much less problematic than the other symbols because it was not an emotional issue. The groups generally felt that there was no clear indication as to whether it should be replaced or not. Few people had any knowledge of the arms and the emblems incorporated in them. Although most participants felt that a new coat of arms would also be needed in the spirit of changing all existing symbols, many felt that there was no real need to change the existing arms because they did not have the negative connotation of the other symbols. Negative factors that were mentioned was the colonial legacy presented by the arms and the fact that they had no direct bearing on the new regions that were being negotiated.

The scant reaction to the decision to retain the old coat of arms as an interim national symbol confirmed the general feeling expressed during the surveys that the choice of the arms was not an emotional issue. Retention of the arms would mean that one of the oldest links with the country's colourful heraldic traditions would remain intact.

## CHAPTER 7

### SOUTH AFRICAN ANTHEMS

*Arlene Grossberg*

#### 7.1 INTRODUCTION

With the adoption of two interim anthems for the Republic of South Africa on 27 April 1994, the country found itself in a unique situation. Strong feelings have been evoked by both anthems, and the government decided to accommodate all sections of the population by adopting the two anthems, "Die Stem van Suid-Afrika" ("The Call of South Africa") and "Nkosi Sikelel' iAfrika". This decision, a symbolic gesture of reconciliation in itself, brought together officially two long traditions of essentially "Western" and "African" anthems that had for some time been sung concurrently in the same country.

In previous chapters, only visual symbols were individually treated, with references to heraldic, legal, functional and other contexts. In respect of anthems, similar background information will be supplied, followed by historical surveys of "Die Stem van Suid-Afrika" (hereafter referred to as "Die Stem") and "The Call of South Africa", and of "Nkosi Sikelel' iAfrika" (hereafter referred to as "Nkosi"). The anthems are included as Appendices D and E respectively. The process leading up to the decision to adopt both anthems has already been discussed in Chapter 3 and only relevant additional information will be included here.

A general overview of anthems, including criteria relating to their nature and function, is presented in Section 7.2.



### The multiparty negotiations, 1993

The work and decisions of the Commission on National Symbols have already been discussed in Section 3.4. It was decided that representatives from bodies such as the Foundation for Creative Art Centres in South Africa and the National Arts Initiative would be nominated as assessors to assist the commission in deliberating on the desired musical qualities of a national anthem. The commission received 119 entries for an anthem, from which a shortlist of six entries, including "Die Stem" and "Nkosi Sikelel' iAfrika", was compiled for the final section. The commission felt that although these six songs were good, none of them fully complied with the requirements. It was recommended that "Vunwe", composed by Shalati Joseph Khosa (a musician from Gazankulu) in Tsonga and English, be considered as an alternative to "Die Stem" and "Nkosi". The commission responded as follows: "The text (sic) of the anthem can play a leading role in rallying diverse people around the statement of unity, respect for each other and towards a realisation that South Africa is for all. In the text the future is for all, the past does not feature."

Most commission members favoured the official anthem "Die Stem" and the traditional "Nkosi" as dual anthems for the transitional period. In a minority report, three members of the commission favoured "Nkosi" but were prepared to accept the playing of a few bars of "Die Stem" as well.

The initial and the final report of the commission were released at the World Trade Centre at Kempton Park on the same day. The initial report appeared in the morning of 19 October 1993, but was later withdrawn and stripped of most of its annexures, and the final report was made available that same afternoon. The Negotiating Council debate, which took place on the morning of 21 October, was attended by members of the commission and concentrated on the national anthem, particularly the minority report. Emotions flared, and the debate had to be terminated by the chairman.

It was reported (*Sunday Star*, 24 October) that the failure of the Commission on National Symbols to find a single unifying anthem had caused considerable tension at the talks. Some negotiators stated that the anthem had become a divisive rather than a unifying issue as politicians hurled abuse at "Die Stem" and "Nkosi" in turn. Commission member Dr Musa Xulu reported that rightwingers lobbied to retain "Die Stem", while others with a leaning towards NP ideology argued that with minor textual changes "Die Stem" could be made acceptable to all South Africans. At the same time there was a strong lobby, especially among black political groups and some leftist politicians, in favour of "Nkosi" as the new national anthem. Some people in this lobby felt that with a few word changes and the removal or adaption of the Sotho part, "Nkosi" could be acceptable to all South Africans. Another school of thought supported the co-existence of both anthems during the transitional period until one gained overwhelming support, or both disappeared in favour of a new anthem. The final lobby according to Dr Xulu, which was federalist in nature, argued for a completely new anthem that could play a unifying role. Regional states that wanted to retain either anthem or to adopt their own new anthem as a second regional anthem, should be allowed to do so.

Mr Joe Slovo (SACP) said that for the majority of South Africans, the words of "Die Stem" about "protecting what our fathers built" sounded like a sick joke (*Citizen*, 23 October 1993). Mr Blade Nzimande of the ANC said that "Die Stem" was an anthem of oppression. It was reported that the ANC favoured singing only "Nkosi", followed by just the tune of "Die Stem". It was however realized that it would be impossible to prevent "Die Stem" supporters from singing along, and any

attempt to suppress the words would only aggravate tensions. The commission's proposal that "Die Stem" be suitably "sanitised" of sectional overtones, notably the reference to oxwagons, was also criticised. The Democratic Party's Dene Smuts warned against efforts to make "Die Stem" politically correct. The issue was then left in the hands of the Planning Committee of the Negotiating Council.

### **Further process, 1993**

The new interim constitution for South Africa agreed to by the Negotiating Council was tabled at a special session of parliament in December 1993. The clause relating to the national anthem states: "The national anthem of the Republic shall be determined by the President by proclamation in the Gazette."

By the end of 1993 no concrete decision had thus been reached and the matter of a national anthem remained in abeyance for a few months. On 15 February 1994 the national symbols question was considered by the Transitional Executive Council (TEC) which subsequently delegated a two-person subcommittee (comprising Cyril Ramaphosa and Roelf Meyer) to make recommendations on South Africa's new national anthem. This committee duly proposed the adoption of both "Die Stem" and "Nkosi" as dual anthems for the transitional period and stated that an elected Constitutional Assembly should make a final decision on the anthem. The TEC would advise the president to include a proclamation on the matter in the interim constitution.

### **Government's proposed interim constitution, 1994**

According to the proposed interim constitution in 1994, both "Die Stem" and "Nkosi" should enjoy the status of national anthem when the Government of National Unity took power. A proclamation to this effect was published in the *Government Gazette* on 20 April 1994 and came into force seven days later.

At the presidential inauguration on 27 April 1994, South Africans of different races came face to face with the gulf created by history. *The Star* of 11 May reported that many normally conservative whites raised their hands while "Nkosi" was being played and some blacks did the same during "Die Stem", which was a "first" in South African experience. New South African norms would take time to develop, but in the week of reconciliation, the right will was displayed. Many who were not *au fait* with the anthems, mouthed the words in respect.

The Protocol Committee that arranged the inauguration had little time to select lyrics of "Nkosi" that would be acceptable to most people. The official order of performance was "Die Stem" followed by "Nkosi". Some adaptations were made to the English translation of the Lovedale Press version. Archbishop Tutu's suggestion "may her spirit rise high" was included, instead of "may her horns rise high", and "block out all its unrighteousness" replaced "block out all its wickedness" (which appeared in the original Lovedale version). The inaugural programme included the classic Xhosa version of "Nkosi" with an English translation, and Afrikaans and English versions of "Die Stem" (see Appendix ?). Those attending were free to sing both anthems in whatever language they preferred.

## Promotion of both anthems

President Mandela insisted that both anthems should enjoy equal status during the rule of the Government of National Unity (*Sunday Tribune*, 9 October 1994). He warned that the anthems should not be allowed to become divisive rather than unifying factors. He told a crowd at a soccer match between South Africa and Zambia that people should make a habit of singing both anthems, learning the words if they did not know them. It is only when symbols are rejected by a section of the population or are seen to be under threat by those to whom they are meaningful that people cling to them, to the exclusion of others.

On another occasion at a South African embassy reception attended by 1 000 people in Washington during October 1994, President Mandela insisted, speaking in Afrikaans, that "Die Stem" also be sung when it became apparent that the guests were not about to sing the second anthem. He said that "We are South Africans, we must sing 'Die Stem'".

History was made when "Die Stem" was played at the opening session of the Frontline States' last meeting after the entrance of President Mandela and President Robert Mugabe (chairman of the Frontline States), heads of states and other representatives.

The dual anthem was sung for the first time at a rugby match when South Africa played England on 4 June 1994, at Loftus Versveld. The first time "Nkosi" was heard on a rugby tour abroad was before the Springboks opening match of their New Zealand tour against King's country in Taupo, in June 1994. There was concern that some team members knew the words of "Die Stem" but not those of "Nkosi".

During November 1994, various attempts at reconciliation were made by ANC regional representatives. "Die Stem" was sung at the first provincial congress of the ANC in the Northern Cape. Free State Premier Patrick Lekota criticised the Free State ANC's provincial congress members for not singing "Die Stem" and asked them in the interest of reconciliation to make a concerted effort to learn the Afrikaans version of "Die Stem".

Sportsmen supported reconciliation and were eager to accommodate political developments. Francois Pienaar, captain of the Springbok rugby team, gave President Mandela the assurance that his team would sing "Nkosi" whilst on tour again in New Zealand (*Star*, 27 June). The team practised the song and learnt the words.

## Star/MMR opinion poll, 1994

Four months into the new South Africa, according to a 1994 *Star/MMR* opinion poll, only 16 % of South Africans said that they could sing both anthems, and 37 % said that they could sing only one, but intended learning the other. Thirty-five per cent said they had no intention of learning the "other" anthem. (Of these, 78 % were are Freedom Front supporters, 43 % ANC supporters and 40 % Inkatha Freedom Party supporters). Twelve percent of the country's citizens knew neither of the country's anthems.

## Request for a shorter anthem

As in 1933 (with "God Save the King" and "Die stem") singing two anthems was found to be a lengthy business. In 1994 President Mandela complained in Seshego (outside Pietersburg) that singing "Nkosi" in Sesotho followed by "Die Stem", was boring and meant that people had to stand too long. He suggested that one verse of "Nkosi" be sung in Xhosa and Sesotho each, followed by one verse of "Die Stem". The singing of the two anthems would thereby be reduced to three verses.

In September 1994, whilst addressing mourners at the funeral of the ANC's treasurer-general, Mr Thomas Tito Nkobi, President Mandela reiterated the need for shorter anthems and formally requested Deputy President Thabo Mbeki to raise the issue with the cabinet. He also asked for a ruling on whether or not he should raise his hand during the singing of "Die Stem", as he had been criticised for doing so and also for failing to do so. A special Anthem Committee was accordingly set up to investigate the matter. On behalf of the committee, Mr Cyril Ramaphosa proposed to Cabinet that nothing should be taken away or added to the national anthems, but that on formal occasions only the first verse of "Nkosi" and "Die Stem" should be sung. These should also be a composition for military and other non-formal band use. It was further suggested that public opinion should be surveyed and the findings sent through to Deputy President Thabo Mbeki.

The Conservative Party Congress (*Patriot*, 28 October) which was held in October 1994, expressed its deep disapproval at what it considered to be the degrading of "Die Stem" and undertook to promote the anthem. On 25 August *Die Afrikaner* reported that (conservative) Afrikaners were tired of the manner in which their anthem ("Die Stem") was being tampered with, and regarded it as a further attack on their national symbols and sentiments. It was also reported that any attempt to deviate from the original setting and words would be unacceptable. The Afrikaner Weerstandsbeweging (AWB) reacted strongly to the suggestion of toning down and merging the anthems — AWB spokesman Fred Rundle (*The Citizen*, 17 August) referred to this as a "socialist, communist plot to undermine the Afrikaner".

## Attempts to combine "Die Stem" and "Nkosi"

Cape Town composer Peter van Dijk was commissioned to arrange a combined standard version of "Nkosi" and "Die Stem", which was played in public for the first time by the National Symphony Orchestra at the Altron Prestige Concert in Johannesburg in November 1994. Premier Tokyo Sexwale observed that it would require professional training to sing the new composition (*Sunday Times*, 6 November 1994). Other musical arrangements are being experimented with unofficially by various South African composers.

Late in 1994 Prof. J.S.M. Khumalo (University of the Witwatersrand) was appointed chairman of a committee on the shortening of the anthem comprising of Mr R. Cock (SABC), Drs. J. Zaidel-Rudolph (composer) and W. Serote, Profs. F. Meer (University of Natal), E. Botha (Unisa), J.M. Lenaka (Unisa), K. Mngoma (University of Zululand), M. Mazisi Kunene (University of Natal) and J. de Villiers (University of Stellenbosch, grandson of the composer of "Die Stem"), and Mrs Anna Bender (musician). At a meeting held on 10 February 1995, some suggestions were put forward as to how the anthem could be modified and the duration drastically shortened. A sub-committee of Cock, Khumalo and Zaidel-Rudolph was appointed to implement the committee decision (*The Star*, 5 May 1995). Two submissions were submitted to Cabinet, and the shorter of the submissions, approved on 19 April 1995, with the recommendation for certain alterations to

wording. The Committee will be consulted again to attend to the matter, and a second submission will be made to Cabinet.

The submission of the Committee as it stands is as follows:

- 1 Nkosi Sikelel' iAfrika  
Maluphakanyisw'uphondo Iwayo  
Yizwa Imathandazo Yethu  
Nkosi Sikelela, Thina Lusapho Iwayo

Translated (God bless Africa  
May its horn be raised  
Hear our prayers  
Lord bless us, its (Africa's) children)

- 2 Morena Boloka setjhaba sa heso  
O fedisa dintwa le matshwenyeho  
O se boloke (O se boloke) satjhaba sa heso  
Satjhaba sa South Africa, South Africa

Translated (Lord bless our nation  
And stop all wars and suffering  
Preserve it (preserve it) our nation  
Preserve our South African nation, South Africa)

- 3 Uit die blou van onse hemel  
Uit die diepte van ons see  
Oor ons ewige gebergtes  
Waar die kranse antwoord gee

- 4 We can hear the land rejoicing  
With a voice not heard before  
Let the people of our country  
Live in peace for evermore.

The combined anthem which took 5 minutes and 7 seconds to play, has been cut to 1 minute and 35 seconds. It includes five 5 languages in its four verses, incorporating Xhosa and Zulu in the first stanza, followed by stanzas of South Sotho, Afrikaans and English. A musical bridge was created between the two anthems to lead the singing from two verses of "Nkosi" straight into two verses of "Die Stem". (*The Star*, 20 April 1995).

### **Popularity of the dual anthem**

During the first year of the combined anthem's use South Africans clearly became accustomed to the dual anthem arrangement. It was sung enthusiastically at schools, national sporting events and festivities. School children throughout the country learnt at least the first stanzas of each separate anthem. Although most of the white population did not know the words of "Nkosi", it was obvious that the song had become increasingly popular. The support of black leaders for the singing of "Die

Stem" in Afrikaans greatly contributed to the spirit of reconciliation represented by the dual arrangement. The stage was therefore set for the acceptance of a shortened version by the majority of the population.

### **Comparison of "Die Stem and "Nkosi"**

Despite the negative comparisons that were often drawn between the two anthems, they actually have a considerable number of commonalities. The most striking is that both evidence a trust in God and conclude with an appeal to bless the land and the nation (people). Although "Die Stem " has sectional images in the earlier stanzas, it ends with a prayer that unites the land and the nation. "Nkosi" also refers to "union" and "mutual understanding" in the closing stages (Stanza 7).

In both anthems the land is portrayed as a living being: "Die Stem" refers to "the voice of our beloved" (1) as soothing (3) and to the population as children (3); "Nkosi" expresses the wish "May her horn rise high up" (1) and that Africa's wickedness, transgressions and sins be blotted out (8). The land is shown as a being worthy of loyalty, devotion and God's blessing. Although gender specification is avoided in "Die Stem" (compared to "Thou hast borne us" in "The Call of South Africa", 2), in both anthems the land is seen as an archetypal mother. The unity of her children and their dependence on her and on the blessing of God are emphasised.

Both anthems are founded on the premise of desirable, life-enhancing social, religious and moral values such as devotion, loyalty, trust, freedom, fraternity, unity, the upliftment of the nation as a whole, the value of work and the raising of the quality of human life.

Both poems contain metaphors relating to nature, agriculture (oxen/stock raising) and the cyclic ages of man (birth/death, cradle/child/youth/woman/men). They succeed in creating a strong sense of unity of space and time, and the transcendence of life and death.

By joining the two poems as interim national anthems, their differences have served to unite Western and African references symbolically. "Die Stem" contains Western references such as Afrikaners, oxwagon, wedding bells and "lanfer van ons rou" (in the blackness of our mourning). A typical rural, African context is evoked by references in "Nkosi" to chiefs, the horn, agriculture and stock raising. The merging of these differences — seen in conjunction with the many points in common between the poems — has resulted in a symbolic unification that may be even more powerful than that evoked by the flag.

### **Conclusion**

As in the case with the new national flag, the merging of indigenous African and Western symbolic traditions in the anthem has laid an ideal foundation for the song to contribute to reconciliation and nation building. The objection that both "Die Stem" and "Nkosi" were being "tampered with" in the dual arrangement, is to a certain extent set aside by the new, shortened version. This meant that the two existing songs (also "The Call of South Africa") can still be sung and respected as they are by differing cultural groups. The use of the inspiring music of both songs, combined with the evocative metaphors in the references to the country, its scenery and its people, ensures that the new version has the qualities to instill respect, reverence and patriotism. Again, as in the case with the flag, the new symbolic order that the country has entered may see the end of long and acrimonious debates.

## 9.4 THE NEW NATIONAL CONSTITUTION

*Godswill Langa*

### Introduction

The need for a re-interpretation of history and a redressing of past mistakes within the context of the nation-building described above, received its most powerful focus with the adoption of the interim constitution. Provisions in the constitution on the national state symbols have already been discussed at length. However the constitution also introduced an additional range of highly significant symbols in their own right. They include the democratic constitution itself, the name of the unified country, the state form, a bill of rights, official languages and the office of the head of state. Some of these symbols were new, some were adapted and some remained the same as in the previous political dispensation. Symbolic continuity and compromise were thus ensured.

### The "new" South Africa and the constitution

In his introduction to the book, *Birth of a Constitution* (1994:xiii), de Villiers observes: "Since February 1990 the ideal of a 'new' South Africa became a common unifying symbol to an overwhelming percentage of the South African population." De Villiers further points out that there has never been clarity about what the "new" South Africa should entail. The parties at the Convention for a Democratic South Africa (CODESA) agreed on general concepts but they disagreed on detail. The elements in the new constitution were the product of negotiation and sufficient consensus among the parties and therefore amount to compromise.

The subsequent acceptance of the 33 principles, which would be applicable to the transitional as well as all future constitutions, ensured that these principles became symbolic of the "new" South Africa. Any future constitutional provision that was in conflict with these provisions would be considered invalid (De Villiers, 1994:41).

The spirit of the new and highly symbolic constitutional order that was entered into, is captured in the first sentence of the Preamble of the Constitution of the Republic of South Africa, 1993: "We the people of South Africa declare that ... there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms ..." The "new order" that had to be created was indeed a new symbolic order.

The highly symbolic importance of unity in diversity is acknowledged in the constitution and it is recognised that "provision should be made for the promotion of national unity and the restructuring and continued governance of South Africa while an elected Constitutional Assembly draws up a final Constitution". The sense of unity reflected in the country's motto is also represented in the name of another important symbol: the Government of National Unity (GNU). The widely differing parties comprising the GNU became the custodians of the new constitutional principles.

The interim constitution has provided a sound basis for a future constitution, which has been widely debated. The publication date of this report prevents discussing details of the final constitution here, but its symbolically most important principles have been guaranteed in the constitution.

### **The old and the new constitutions**

The 33 democratic principles that guided the drafting of the 1993 Constitution and all future constitutions are in sharp contrast to the previous constitutional laws collectively known as the 'apartheid laws'. These laws formed the basis of the system the world came to regard as synonymous with oppression. Olivier (1994:50) lists some of these laws as "the withholding of the franchise from black South Africans; the domination, within the tricameral parliament, over Indians and coloureds; the system of parliamentary sovereignty; the absence of a justiciable bill of human rights; the statutory prohibition of a substantive testing right for the courts regarding legislation and executive acts; the subjugation of the executive authority by the party enjoying the support of the majority in parliament; the system of so-called independent states and self-governing homelands; the emasculation of the provincial system, etc." The new constitutional principles represent the "new" South Africa in much the same way that these laws represented the "old" South Africa.

De Villiers (1994:42) mentions ten categories required for the establishment of a new democratic dispensation. Some have already acquired rich symbolic value for the citizens of South Africa. This may be because the application of specific principles has received extensive media coverage and because these principles have engendered the most debate and their reception has been the most mixed and controversial. Of the ten categories mentioned by De Villiers, five have become high-profile issues. These are the following:

- \* The sovereignty of the constitution and the role of the courts, especially the Constitutional Court, as guardians of the constitution is acknowledged.
- \* Separation of tiers of government, with the legislative, the executive and the judicial branches functioning independently.
- \* A representative and responsible government that will be established through general elections on the basis of proportional representation with minority parties guaranteed effective participation and special majorities required for specific matters.
- \* Rights and freedoms that will be protected by a bill of rights and that will ensure that individuals are treated equally. Language and cultural diversity will be recognized and certain collective rights of minority groups and groupings in civil society acknowledged.
- \* The constitutional power of all three levels of government, namely, national, provincial and local, which will be guaranteed.

De Villiers (*ibid.*47) pertinently asks whether these principles are merely temporary or whether they will be permanent. "The key question is therefore whether the principles in fact



reflect the values, spirit, convictions, and democratic culture of the country, or whether they were just a temporary political escape mechanism to keep the negotiations on track - just the proverbial sugar coating of the bitter pill."

During the first year after its adoption it became clear that the interim constitution, notwithstanding its political genesis as a document of compromise, had become a symbol of legal refuge for the man on the street. Minorities, women and even common-law prisoners demanded constitutional protection, rights and guarantees. One could therefore argue that the 33 principles truly reflect the values, spirit and convictions of the country's new democratic culture.

Despite the mystification of the intellectual discourse on the principles, the new interim constitution has enjoyed public acclaim as shown by its frequent usage in informal public discourse. The basic meaning of the various constitutional symbols has acquired far more symbolic significance than the legal language of its clauses would imply. The meaning is a shared one for all South Africans.

### **The ANC's constitutional principles**

The compromises arrived at for the adoption of the interim constitution may well be related to the fact that the priorities of the largest party, the ANC, coincided with those of the other major parties. In a document compiled by the ANC entitled *Constitutional Principles for a Democratic South Africa* (ANC, 1993), the ANC gives five requirements for a united South Africa: the territorial unity and constitutional integrity of the country; a single citizenship, nation and a common loyalty; the dismantling of all apartheid structures and their replacement by institutions of government that are truly non-racial and democratic; a single system of fundamental rights guaranteed on an equal basis for all; and the flag, names, public holidays and other symbols of the country which should encourage a sense of shared South Africanness.

### **Additional constitutional symbols**

In addition to the 33 principles some other elements of the constitution have high symbolic significance. The name of the country, Republic of South Africa, has been retained in spite of its association with the past. The only difference is that in terms of the new constitution the sovereignty of this territory now includes the former TBVC states. More will be said about the name of the country in the following section.

The office and authority of the president have been considerably enhanced. The normal powers and functions of the president, including the appointment and reception of ambassadors, plenipotentiaries and diplomatic representatives, and the negotiation and signing of international agreements (De Villiers, 1994:60), have been expanded. The constitution has created the possibility for the first president to become an internationally respected statesman whose views are crucial to economic, military and technological trade between South Africa and other countries.

The interim constitution emphasises the minor role of Government in imposing laws and recognises that power resides in the people. Terms like "people-driven sustainable development" or "people-needs analysis" became so popular after the elections that they have

sometimes been reduced to the level of mere rhetoric. The equally symbolic Reconstruction and Development Programme can only succeed through "people participation".

### **Official languages**

For almost a century the choice of official languages has been one of the most contested areas of cultural power. During the previous political dispensation the privileged position of English and particularly Afrikaans as the only official languages caused much resentment. Provision for the widest possible compromise is made in the interim constitution:

- (1) Afrikaans, English, isiNdebele, Sesotho sa Leboa, Sesotho, siSwati, Xitsonga, Setswana, Tshivenda, isiXhosa and isiZulu shall be the official South African languages at national level, and conditions shall be created for their development and for the promotion of their equal use and enjoyment.
- (2) Rights relating to language and the status of languages existing at the commencement of this Constitution shall not be diminished, and provision shall be made by an Act of Parliament for the rights relating to language and the status of languages existing only at regional level, to be extended nationally in accordance with the principles set out in subsection (9).

Although the languages that are mainly spoken in parliament are English and Afrikaans, members of parliament have been known to quote extensively from other official languages as well.

It is clear that the interim constitution has served as a unifying factor for a highly diverse South African society. Its framers aimed at satisfying and safeguarding everybody's interests, while at the same time limiting the powers of government.

These twin aims may prove hazardous. For instance, the private individual's right to access to confidential information held by the government pertaining to himself/herself may compromise the state's right to gather information it deems crucial to its security. It is therefore not surprising that the function of the Constitutional Court to interpret and give final judgement on such disputes has led to its being perceived as the most powerful court in the land. The Constitutional Court is itself a symbol of hope for the individual against the possible tyranny of the state.

Major disputes between political parties have been defined by either the inclusion of elements in or their exclusion from the constitution. An example was the dispute between the Inkatha Freedom Party and the African National Congress on whether or not international mediation is required, which has replaced traditional weapons issues as sites and symbols of the political struggle. The degree of central as opposed to regional powers as defined in the constitution is also a constant source of conflict.

The shape of the new South African society will be profoundly affected by the new constitution, which can be said to be national culture in the making.

## 9.5 PLACE NAMES AS SYMBOLS

Lucie Möller

*The old order changeth, yielding place to new...*

### Introduction

Place names, from whichever language they originate, are used by all the inhabitants of a country. This renders them a common cultural asset, although these names may at the same time be ethno-culturally based. As such they may become a unifying factor that can promote national identity and a shared nationhood. However since names are amongst the most powerful symbolic signs, they can either promote unity within a multi-cultural diversity, or cause irreparable divisions.

### (EXCERPT)

#### The name of the country

Thus far and constitutionally the official name of the country has still been retained as *Republic of South Africa* and *Republiek van Suid-Afrika* in the former two official languages. Suggested name changes included that of the country, where *Azania* was quoted as a possible alternative in earlier reporting. Although some debates in the media proposed the name *Azania* for the new South Africa, even President Mandela commented "that it is far-fetched to presume that South Africa's name is to be changed to Azania..." (*Die Burger*, May 3, 1994). This name has, over the years, drawn mostly negative reaction, especially from the nationalists and far-right, but also from other groups, even the ANC in general, mainly probably because of its resemblance to the *Azanian Peoples Organization (AZAPO)* as well as its military wing APLA; also because of its racist connotation of a designation referring to "the country of black tribes (blacks)", and its reference in old Arabic documents as a region somewhere in middle Eastern Africa and not Southern Africa (Hilton, 1994).

To know and use the name of the country in all eleven national languages has now become important in all forms of communication. A list of the short forms of the name is included here:

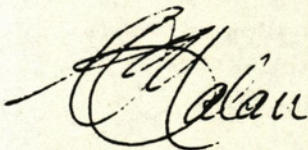
Afrikaans: *Suid-Afrika*, English: *South Africa*, Ndebele: *Sewula Afrika*, Pedi: *Afrika-Borwa*, Sotho: *Afrika-Borwa*, Swazi: *Ningizimu Afrika*, Tsonga: *Afrika Dzonga*, Tswana: *Afrika-Borwa*, Venda: *Afrika Thsipembe*, Xhosa: *Mzantsi Afrika*, Zulu: *Ningizimu Afrika*.

The HSRC researchers involved in the investigation would therefore like to make the following recommendations concerning the status of the national symbols in the new constitution:

- \* The interim national flag should be adopted without any changes.
- \* A combination of the two interim anthems should be adopted as the new national anthem. Some time may be needed to evaluate and possibly adapt the proposed combined version. The committee's draft combined version can be criticised on a number of points. Since public involvement is crucial in choosing national symbols - in order to establish a sense of collective "ownership" - sufficient time for comments and proposals should be allowed before final decisions on the lyrics and music are taken. The principle of a combination of the two anthems can be enshrined in the new constitution, and a final decision can later be taken by means of a proclamation by the president.
- \* The interim coat of arms should be adopted without any changes. This will maintain a link with South Africa's heraldic tradition. The general public are not interested in the individual, controversial emblems in the arms and the cost of replacing the arms would be prohibitive.

We trust the information and submission will be of value to you. If you need further information, you are most welcome to contact me.

Yours sincerely



CHARLES MALAN  
PROGRAMME LEADER

**TELEFAX MESSAGE**

**TELEFAKSBOODSKAP**

**Human Sciences Research Council**

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**Project nr EFFF CB**

**TO/AAN: Ms Viola Rammble (attention: Paul - Submissions)**

**Fax number/Faksnommer: 021 - 241160**

**Page one of/Bladsy een van 4**

**FROM/VAN: Prof. Charles Malan**

**DATE/DATUM: 11 July 1995**

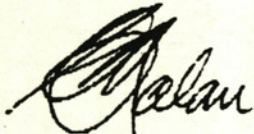
**RE./IS.: Submission on national symbols**

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**Dear Ms Rammble**

We sent you a submission in May and have received no acknowledgement. However we were informed by telephone that you have received it. Since this submission is updated in the letter, please ignore the previous letter.

Yours sincerely



**CHARLES MALAN**

**PROGRAMME LEADER, NATIONAL SYMBOLS INVESTIGATION**



RAAD VIR  
GEESTES-  
WETENSKAPLIKE  
NAVORSING

**RGHN**  
**HSRC**

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11 July 1995

**HSRC INVESTIGATION INTO NATIONAL SYMBOLS  
RGN-ONDERSOEK NA NASIONALE SIMBOLE**

The Managing Secretary  
Constitutional Assembly  
Regis House  
CAPE TOWN  
8000

Dear Ms Ramble

**SUBMISSION ON NATIONAL SYMBOLS IN THE NEW CONSTITUTION**

Attached is a submission on national symbols in the form of excerpts from the third report of the HSRC investigation which is nearing completion, entitled *A New Symbolic Order: National and Other Symbols of South Africa*. More information about the report and the investigation can be found in the attached Introduction to the report. Our previous two reports were used by decision makers to help them decide on interim national symbols.

The excerpts were chosen to reflect our latest findings on the perceptions and popularity of the three interim national symbols: the flag, anthem and coat of arms. On the basis of media analyses and surveys the following is clear:

- \* In the first year following their adoption, the new flag and the combined anthems have become very popular with most South Africans.
- \* Although it is too early to say what the public's reaction to the shortened version of the anthem will be, the popularity of the present combination would suggest that the shortened version will be even more acceptable since it retains the spirit of both anthems and is now also much easier to sing.
- \* Few people have any knowledge about the coat of arms and the emblems incorporated in it. The decision to retain the old arms elicited almost no controversy in the media.

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The HSRC researchers involved in the investigation would therefore like to make the following recommendations concerning the status of the national symbols in the new constitution:

- \* The interim national flag should be adopted without any changes.
- \* The interim coat of arms should be adopted without any changes. This will maintain a link with South Africa's heraldic tradition. The general public are not interested in the individual, controversial emblems in the arms and the cost of replacing the arms would be prohibitive.
- \* A combination of the two interim anthems should be adopted as the new national anthem. Some time may be needed to evaluate and possibly adapt the combined version. Prof. James Khumalo complained in a TV programme that it has not been widely disseminated and sung in public. The committee's combined version is admirable, but it can be criticised on a number of points. Since public involvement is crucial in choosing national symbols -in order to establish a sense of collective "ownership" - sufficient time for comments and proposals should be allowed before final decisions on the lyrics and music are taken. The principle of a combination of the two anthems can be enshrined in the new constitution, and a final decision can later be taken by means of a proclamation by the president.

The combined version was published as follows:

- 1 Nkosi Sikelel' iAfrika  
Maluphakanyisw'uphondo Iwayo  
Yizwa Imathandazo Yethu  
Nkosi Sikelela, Thina Lusapho Iwayo

Translated (God bless Africa  
May its horn be raised  
Hear our prayers  
Lord bless us, its (Africa's) children)

- 2 Morena Boloka setjhaba sa heso  
O fedisa dintwa le matshwenyeho  
O se boloke (O se boloke) satjhaba sa heso  
Satjhaba sa South Africa, South Africa

Translated (Lord bless our nation  
And stop all wars and suffering  
Preserve it (preserve it) our nation  
Preserve our South African nation, South Africa)

- 3 Uit die blou van onse hemel  
Uit die diepte van ons see  
Oor ons ewige gebergtes  
Waar die kranse antwoord gee

- 4 We can hear the land rejoicing  
With a voice not heard before  
Let the people of our country  
Live in peace for evermore.

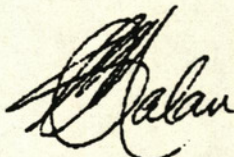
Examples of points of criticism that may be raised, are the following:

- Stanzas 1, 2 and 4 all contain an invocation/blessing but the Afrikaans stanza 3 does not even have a verb that should logically follow ("antwoord gee" only refers to "kranse"). Linguistically, the stanza only makes sense when read in conjunction with stanza 4, but this deviates from the pattern in the other stanzas and it remains uncomplete as a linguistic unit on its own. It was intended only as a preamble.
- The invocation in stanza 4, for peace, is a repetition of the invocation to stop wars and suffering in stanza 2. This means that an opportunity is lost to include one of the other powerful metaphors from the two original anthems.
- The published shortened version does not have a title.

Judging personally - since I hold a doctorate in literature - I believe that a committee of literary scholars and linguists who should deal with the contents, can produce a better version. They could then make recommendations to the present committee.

We trust the information and submission will be of value to you. If you need further information, you are most welcome to contact me.

Yours sincerely



CHARLES MALAN  
PROGRAMME LEADER, NATIONAL SYMBOLS INVESTIGATION





Department of Political Studies

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07 August 1995

Att: Mr Cyril Ramaphosa  
Chairperson  
Constitutional Assembly  
Office V15, Old Assembly Bldng  
PARLIAMENT, CAPE TOWN

Dear Mr Ramaphosa

I am writing because I had understood that there would be an opportunity for input from the public at the June 10 Public Meeting of Theme Committee One dealing with the location of Parliament.

In fact, the public were only afforded an opportunity of asking questions. I am, therefore, putting in writing the substance of the views I would ask the committee to consider.

I write, particular, as the project leader of the UCT research team which canvassed the perceptions of the Parliamentarians. Since the findings of this research, and indeed of other research on this topic have not apparently been fully understood, it seems to me especially important to set the record straight. Obviously, I have some (though not very strong) personal preferences in this matter.

I hope, however, that it is clear from the design of the research that it has been methodologically impossible for these preferences to affect (even unconsciously) the findings. The same academic integrity, incidentally, characterises the IDASA and the Stellenbosch surveys.

I would make five points.

1. There are three surveys whose results have been made public: the IDASA survey, led by Prof Wilmot James, the Stellenbosch University survey, led by Prof Hennie Kotze and the UCT survey for which I was responsible. The Pretoria delegation refers to its "own research" and has made mention of the studies undertaken by the HRSC. These findings, however, have not been made public and presumably, therefore, do not rebut the findings of the studies which have been published.
2. The IDASA, Stellenbosch and UCT studies were addressed to different target groups. The IDASA study was concerned with the population of South Africa as a whole. The Stellenbosch study was concerned with South African leaders in business, the unions, the professions etc. as well as in government. The UCT study was concerned only with parliamentarians.

None of the surveys were concerned with *preferences*: they were all concerned with *judgements* about where parliament *ought* to be located. This is particularly important in the case of parliamentarians who may as individuals have all sorts of personal preferences but who must make the final decision by exercising their judgement about what is in the best interests of the country as a whole.

3. It is consequently misleading when the media report the UCT survey as having found that parliamentarians "want" parliament to remain in Cape Town. What we were concerned with was their *perceptions concerning the effective working of parliament and government*.

Here what we found was, first, that by a majority of 3:1, parliamentarians thought that parliament and government had worked reasonably efficiently in 1994. And, secondly, that such inefficiencies as there were would not be put right by moving parliament away from Cape Town.

4. The UCT research was not primarily concerned with the location of parliament (nor were the IDASA and Stellenbosch surveys). The UCT project was and is concerned very generally with the working and prospects of South Africa's new democracy.

As such, it is particularly concerned with parliamentarians' perceptions of their own functions.

In this respect one of our findings was unequivocal and has a particular, though as yet inadequately appreciated bearing on the location of parliament.

This is that the overwhelming majority of parliamentarians want to represent a constituency or a community with whom they can have regular and personal contact.

In general, this is a very encouraging development from the point of view of nurturing a democratic culture, particularly in as far as it fosters an understanding amongst elected representatives that they bear a responsibility to all their constituents whether they voted for them or not.

It seems, in consequence, virtually certain that the final constitution will incorporate an electoral system which combines proportional with constituency representation.

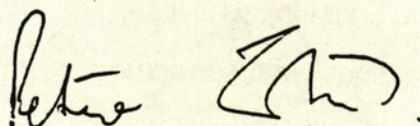
It should be stressed, however, that this development will make nonsense of all the calculations about how much time will be saved for parliamentarians by locating parliament in Gauteng. The relatively large number of MPs who happen to be resident in and around Gauteng at the moment will be drastically reduced by any system of constituency representation.

The stark fact is that the overwhelming majority of parliamentarians will have to maintain dual residences wherever parliament is located and just as they do in democracies throughout the rest of the world.

5. Taking the IDASA survey together with the Stellenbosch and UCT surveys, it is clear that in the absence of a specific mandate from the electorate, moving parliament would be unambiguously anti democratic. Nor can it be justified on the basis of Pretoria's argument (which is actually very insulting to parliamentarians) that leaving parliament in Cape Town means that "effective government will remain but a dream. " This leaves only the financial arguments where, on any showing, the project of moving parliament is hugely risky and where any dispassionate judge is bound to ask: "Who stands to benefit? Who is presently paying (very large sums of money) to get parliament moved and why?" This is not, after all, a project which enjoys majority support in any province in the country, not even in Gauteng itself.

I would be most grateful if the constitutional committee could take note of these points at the stage of deliberation and negotiation.

Yours sincerely



PETER COLLINS  
SENIOR LECTURER, UCT

cc Mr H Ebrahim, Executive Director, CA  
Ms Margie Keegan  
Ms Susan Rabinowitz



# International Fellowship of Christian Churches

## TELEFAX MESSAGE

TO : Constitutional Assembly

ATTENTION : Paul Davids

FAX Nr : 021-461-4339

DATE : Monday August 21st, 1995

Dear Paul

My telephone discussion with you this morning regarding the IFCC Submission to the CA refers.

Attached then, is the IFCC Submission to the CA. It consists of 15 numbered pages (excluding the cover page). Please call me if you don't receive them all.

As discussed, I would appreciate it if you can acknowledge receipt of this latest submission as we have to report back to our Constituency of approximately 1 million people that the CA has indeed received our Submission. I do hope that the Submission document will not vanish this time.

Thank you for your kind assistance.

Sincerely yours.

**FRANCOIS DU PLESSIS**  
Public Relations

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# **IFCC Submission to the Constitutional Assembly**



**INTERNATIONAL FELLOWSHIP OF CHRISTIAN CHURCHES**

-1-

## THE RIGHT TO LIFE

We believe that human life begins at the moment of conception. The argument that the unborn baby is not a person until after birth when it can experience emotions, is rejected by orthodox Christian beliefs. This Christian belief is that the conception and birth of a child is not an accident and does not go unnoticed by God.

# We believe very strongly that a foetus has "rights", which are co-equal with that of the mother. This, of course, is a most critical point of the debate - when is a fetus a living person?

However, if life is not present in the mother's womb at even the earliest stage of pregnancy, then what is it that must be killed, lest it continues to grow?

And if the life is not human, of what species is it?

# Further we cannot support the notion that the woman, only, has the sole right to decide what to do with a so-called "unwanted pregnancy". Pregnancy is not some mysterious thing - it is the result of two people engaging in sex and unless they are both mentally deficient they know that there is a possibility of the woman becoming pregnant.

# As a church we regard abortion as a serious violation of human rights and contradiction of the most essential value in our society - the family. Some feminist movements choose to major on the issue of women's rights, regarding their own bodies, however, few are prepared to speak up for the rights of the unborn child.

# The female responsibility for what she does with her body needs to be taken into account before engaging in sex. When a woman willingly engages in the sex act she is aware that she is running the risk of falling pregnant and therefore is co-responsible for the foetus. The male, too, shares this responsibility to the unborn child.

# We cannot support abortion as a means of birth control. In our opinion it is demeaning to womanhood. It may also lead to emotional guilt later in life. There are other, better, ways of birth control available.

# Abortion is a symptom of a greater social need, which is to teach people about the sanctity of sex in marriage and of the responsibility of having children. Sadly, people often engage in random sex, simply to satisfy their lusts.

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It is sad that abortion is seen as a solution for promiscuous living. We believe that the lobbyists for abortion are taking a defeatist attitude regarding the moral fibre of our society.

This defeatist attitude only compounds the problems of society instead of taking a positive step towards educating people to abstain from sex outside of marriage and maintain the value of the family.

Instead of using abortion to dispose of unwanted children, we should be educating young people about the sacredness and responsibility of sex.

It is our perception that the male is often the one responsible for pressuring women to resort to abortions and young males need to be taught respect for the noble virtues and rights of women.

Diedrich Bonhoeffer, the German scholar, had this to say on abortion in his book on "Ethics":

"Destruction of the embryo in the mother's womb is a violation of the right to live which God has bestowed upon this nascent life. To raise the question whether we are here concerned already with a human being or not, is merely to confuse the issue. The simple fact is that God certainly intended to create a human being and that this nascent human being is deliberately deprived of life. And that is nothing but murder."

John Calvin, the famous Reformer, had this to say on abortion:

"The fetus carried in the mother's womb is already a man; and it is quite unnatural that a life is destroyed of one who has not yet seen its enjoyment. For it seems more unworthy that a man is killed in his home rather than in his field because for each man his home is his safest refuge. How much more abominable ought it to be considered to kill a fetus in the womb who has not yet been brought into the light."

#### CONCLUSION:

We acknowledge that morality cannot be directly legislated by law, however, the total lack of good and wise laws which could enhance morality, would suggest that the laws of the nation were biased towards immoral living standards.

We believe it is the duty of the Constitution to encourage morality and family values which have proven to be the backbone of all good societies.



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It is our belief that most South Africans are not in favour of abortion. We base this view on the deep religious roots that run through our nation.

Therefore, the Right to Life should include the unborn child.

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EQUALITY AND GAY RIGHTS

We see the inclusion of the words "sexual orientation" in the present Draft Bill of Human Rights as an attempt to entrench "Gay Rights".

We believe that other sections of the Bill of Rights provide adequate protection for homosexuals and lesbians within our society.

For example, "Freedom of Expression", "Freedom of Association", "Privacy", "Human Dignity" and in the "Equality" section, which already contains the words "...unfairly discriminated against..."

We believe that the special protection that Gays seek under a Bill of Rights would only expose them further as "victims".

The aim of a Bill of Rights is, in our understanding, a way of guaranteeing certain freedoms. But those freedoms often have a cost. Campaigns to assist people in being treated like others have a way of backfiring.

Instead of merging into the rest of society, minorities are not only marked as "different", but are forever seen as "victims" begging for their rights.

There is also, in our opinion, a false assumption that full equality of Gays can only be accomplished by designating them as "victims". Their claim, it seems, is that they are discriminated against by society.

This is debatable because of the following reasons:

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# Homosexuals and lesbians do not, generally, suffer any discernible economic deprivation and already operate in all levels of South African society.

# They are not deprived of education.

# They have equal access to jobs.

In fact, we may be surprised to find that homosexuals are not only well educated, but probably better educated than the general population. Certainly not the marks of an oppressed minority!

Mr Andrew Sullivan, the gay editor of the American magazine "New Republic", has noted that no "cumulative effect of deprivation" takes place with homosexuals comparable to the "gradual immiseration" of a deprived ethnic group, because EACH GENERATION OF HOMOSEXUALS BEGINS LIFE AFRESH IN HETEROSEXUAL FAMILIES.

Our point is that Gays are not oppressed in our society, nor deprived of economic advancement.

The Gay Movement, unfortunately, chooses to display itself as a "victim" and a so-called deprived minority because of their sexual and moral lifestyle, which they deliberately flaunt in public.

It is not simply their sexual behaviour which is objectionable to many people, but the behaviour and attitude of some militant Gays that offends many people in the greater society of South Africa.

A person's sexual preferences are not normally displayed in public. In all normal societies they are contained within the four walls of the bedroom!

## 2. GAY ADOPTIONS:

The natural family throughout history has been male and female. Children deprived, through death or divorce of one parent, generally, suffer some form of deprivation in their development. This may not be evident until much later in life.

Most people who suffered the loss of a parent when interviewed later on as adults, readily admit that they missed either the presence of the mother or father.

To allow homosexuals or lesbians to adopt children is wrong for the following reasons:

# It is unnatural and goes against the cumulative historical evidence that the best family unit consists of father and mother.

# It contradicts the normal sexual behaviour expected of a married couple and can have a confusing effect upon an adopted child.

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# The demand by Gays for adoption rights may have a very sinister motivation generating a new "Gay Race". Because Gays cannot procreate the only way in which they can enlarge their community is to attempt to programme young children, through adoption, into a Gay lifestyle.

The current section on "Children" says "parental care" and that means in all normal societies fathers and mothers.

Further, the same section stresses that all decisions made on behalf of a child should serve the best interests of the child. The introduction of a child into the dubious world of homosexuality surely would not be in the best interests of a child who may already be suffering from trauma?

-ends-

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D E A T H P E N A L T Y

We believe that the Death Penalty should be retained.

However, it should only be imposed for the most awful of all crimes, murder, and then only when the guilty person has been clearly and unmistakably identified as the perpetrator of the deed.

By murder we mean the premeditated plotting to kill another person, or by the wilful killing of another person while carrying out a crime.

When circumstantial evidence is the only pointer to the guilt of a person, then life imprisonment should be the penalty.

We believe that the death penalty should be used in the cases of High Treason.

We do not see a contradiction with the "Right to Life" clause in the Bill of Rights because when a person wilfully breaks the Rule of Law they forfeit their protection by a Bill of Rights.

It is up to the State to maintain the value and dignity for life and to protect its citizens from those who wilfully break the laws of the land.

This does not mean that criminals should be abused or mistreated, but their "rights" are strictly controlled and limited by the judicial and criminal laws of the country.

-ends-

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## C H U R C H   A N D   S T A T E

### HOW THE ROLE OF THE CHURCH DIFFERS FROM THE ROLE OF THE STATE

Although God has given different roles to the Church and to the State, both are accountable to Him and for this reason we strongly recommend that the preamble to the Constitution retain the words "In humble submission to Almighty God..."

Other points which we would like to make are:

1. The CHURCH'S responsibility is to spread its message and have reasonable access to anyone who is willing to listen to its message.

In addition to its spiritual ministry, the Church must be free to exercise a social function, providing relief to the poor, needy and the sick.

The Church should not only train its people concerning their spiritual duties, but also train them to apply Christian ethics to all areas of life - including civil government, education, economics and law.

The Church should be the moral conscience of the Government, calling it to account to the people when it misses the mark.

2. The essential function of the STATE is to:

# Protect its citizens by punishing evildoers and commending honest citizens.

# Maintain a limited defence force to protect its citizens from foreign aggression.

# Maintain an impartial judicial system, including a police service, to protect its citizens from crime.

In addition it must protect society from monopolistic practices and from those who would inflame and exploit man's lower nature for commercial gain.

While the State cannot make wicked men good, it has the responsibility to create the conditions in which good can flourish. This may be achieved, in part, by restraining man's lower nature through strictly limiting access to pornography, prostitution, gambling, habit-forming drugs et cetera.

**SPECIFIC AREAS OF CO-OPERATION**

**# EDUCATION, HEALTH AND SOCIAL WELFARE**

Education, health care and welfare, as well as the provision of housing and employment are not solely governmental responsibilities, but that of the family, of society and of the Church.

The role of the Government is to act as a facilitator to ensure the smooth operation of schools, hospitals and social welfare programmes, including housing and employment projects.

The Government's responsibility is to ensure that certain standards are maintained in the welfare area and that safety and health regulations are maintained in commerce, industry and medical facilities.

**# PEACE AND RECONCILIATION**

The role of the Church in society is to promote peace and reconciliation and as such is always available as a mediator in the affairs of the nation.

**# DISASTER AND RELIEF ACTIONS**

The Church, because of its inherent concern and close contact with people at grassroots, is an able facilitator in times of national crisis because of its ability to network swiftly with churches across the nation.

**ADDITIONAL COMMENTS:**

**# FREE MARKET SYSTEM**

The free market system should be protected and encouraged, but raw capitalism should be discouraged as it tends to materialism, lack of concern for workers and society. Voluntary socialism should be encouraged in helping the orphan, widow, etc.

**# DEMOCRACY**

People should have a say in their Government and if the form of government is republican (limited government, Bill of Rights, separation of powers) this is the best option available.

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# **GOVERNMENTAL INTERVENTION**

This should be as limited as possible. Government's role is to maintain a level playing field. Where government becomes the provider, individuals will tend to laziness and not pursue their purpose in life.

-ends-



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## PORNOGRAPHY AND FREEDOM OF SPEECH

We wish to state that the issue of censorship is not simply the issue of freedom of speech, but contains within it the matter of morality. And morality cannot be decided by a simple show of hands. When a publication deliberately publishes lies and defamation it cannot hide behind the cloak of "freedom of speech". It oversteps the mark of reasonable behaviour and morality by printing lies and is subject to the law.

We suggest that some of the new ideas coming into our society and which seek constitutional approval, could in fact, mean that lawmakers allow legislation in favour of the peculiar moral choices of some minorities. These moral choices are not necessarily in line with the normal values and standards of South Africa's larger society.

Our Bill of Rights, correctly, should afford protection to minority groups from unfair prejudices, but the majority, after all, should not be dominated by the whims of smaller groups, who attempt to manipulate the publications law so as to impose their value system on the majority.

Therefore, although respecting "Freedom of Expression" as it is in Chapter 3 of the Constitution we would suggest that this should be balanced against "Human Dignity" as expressed in item 10 in Chapter 3.

South Africans are a religious people and the value system of Christians, Muslim and others are in fact, the appreciated norms of our people. Uncontrolled sexual freedom as expressed in many books/magazines, videos and films is, in fact, offensive to the larger part of our society.

We feel strongly that some publications and films/videos demean people and bring disrespect to God's creation.

Pornography most often portrays women simply as sex objects, provided for the lustful gratification of men. It often portrays men as animalistic, driven by raging physical lusts. The God-given gift of sex is degraded and the love and joy of sexual happiness, which should be experienced in marriage, is debased.

Outright bans should be placed on any publication or film that sexually exploited children under 18 years of age.

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Therefore, while respecting the freedom of expression, and the desire of some to have access to dubious erotica we would urge a very strict control of the distribution of pornographic material.

**ETHNIC / RACIAL SLANDER**

Media which expressly set out to promote ethnic or racial hatred should be severely censored to the degree that the publication or film would make no sense and would be withdrawn. Outright banning could be considered in some cases.

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**F A M I L Y   R I G H T S**

**MOTIVATION:**

The primary building block in society is the family. In South Africa the family unit has been seriously disrupted by the Apartheid system.

Because of the primary importance of the family unit and of the need to restore the dignity and its importance in society we believe a section on the family should be included in the Bill of Rights.

The Bill of Rights includes a section on children and we find it strange that the basic parental rights are not specified in the Bill.

We fully support the rights of children not to be abused or exploited. However, the exclusion of primary parental rights appears to give children potentially greater rights than their parents.

To rectify this and to enshrine the inherent value of the family unit in our nation we urge that a section be included in the Bill of Rights.

The following is a suggestion for inclusion:

**FAMILY:**

Parents have the primary right and responsibility to nurture, protect and prepare their offspring for a meaningful contribution to society.

-ends-

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### EDUCATION IN THE CONSTITUTION

1. The right to freedom of conscience, religion, thought, belief and public opinion, and the right to academic freedom are to be condemned. A clause precluding the infringement of the rights of others through the exercise of this right is essential.
2. The right to basic education and equal access is commendable.
3. Instruction in the language of choice is a commendable ideal, and the practicable clause provides a balance here.
4. Freedom to establish educational institutions based on common culture, language or religion is a commendable clause.
5. In general, responsibility for schools falls at the provincial level. The more local the control of schools, the more commendable. If the province was empowered to facilitate parental control of schools this would be a more ideal role.
6. National government sets standards in schools nationally and this will be construed to mean a national core curriculum. In addition, funds are allocated from central government and control over schools will be exercised in this way. Distribution of funds equitably to public and private schools should be guaranteed. Independent bodies should be the ones to test the standards of schools or pupils, irrespective of curriculum. Mathematics and language skills can be tested apart from curriculum to establish basic competence for life or tertiary education.
7. Local government should ensure access to schools through roads and policing. These are legitimate co-operative and police-power functions.
8. School management should not be altered without negotiation, but ultimately the national government must exercise its power in implementing the constitution.
9. The clause which guarantees freedom of sexual orientation in the constitution does not specifically refer to education but will become an issue in the appointment of teachers. This "right" will undermine the family values that are essential to a vital nation, especially if homosexuals are permitted to transmit their values in our schools.
10. The primacy of parental control over children should be enshrined in the constitution, with the state empowered to intervene in very specific and limited situations where parents are abusing their responsibility, and in the interests of the

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child. The role of family authority in a strong nation is paramount. It should be a stated goal of government to strengthen the family.

-ends-



CONSTITUTIONAL ASSEMBLY

**MEMORANDUM**

**DATE:** 21 AUGUST 1995

**TO:** HASSEN EBRAHIM  
EXECUTIVE DIRECTOR

**FROM:** LEOLA RAMMBLE  
MANAGING SECRETARY  
THEME COMMITTEE ONE

**SUBJECT:** THEME COMMITTEE 1  
DISCUSSION ON BLOCK 10: PREAMBLE AND POSTAMBLE

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With regard to **Block 10** of the Work Programme dealing with the **Preamble and Postamble**, it is hereby advised that it was the decision of the Theme Committee at its meeting on Tuesday 15 August 1995 that this matter be deferred until such time as the entire draft constitutional text has been completed.

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