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CONSTITUTIONAL ASSEMBLY

Theme Committee Six

**SPECIALISED STRUCTURES OF
GOVERNMENT**

31st October, 1994

Room 249, National Assembly Wing

DOCUMENTATION

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**CONSTITUTIONAL ASSEMBLY
SECOND MEETING
THEME COMMITTEE 6
SPECIALISED STRUCTURES OF
GOVERNMENT
MONDAY 24 OCTOBER 1994**

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

Date : 31 October 1994

Time : 10h00

Venue : Room 249, National Assembly wing

AGENDA

1. Opening and Welcome
2. Tabling of Minutes of the previous meeting
3. Matters arising from previous minutes:
 - 3.1 Development of a Work Programme for the Theme Committee
 - 3.1.1 Report by Subtheme Committee 1
 - 3.1.2 Report by Subtheme Committee 2
 - 3.1.3 Report by Subtheme Committee 3
 - 3.1.4 Report by Subtheme Committee 4
4. Core Group Report
5. Report on joint meeting of Core Groups 2,5 and 6
6. Any other business
7. Closure

Enquiries: Mr N Nyoka and Ms K Mckenzie, Room CS209 (Tel 403-2269)

CONSTITUTIONAL ASSEMBLY

**MINUTES OF THE SECOND MEETING OF THEME COMMITTEE 6
SPECIALISED STRUCTURES OF GOVERNMENT**

MONDAY 24 OCTOBER 1994 (AT 11H30)

PRESENT

Kgositsile, B (Chairperson)

Alant, T G	Mokitlane, M C
Balie, A (Alt)	Mti, L M
Chiole, J	Nair, B
Davies, R H	Netshimbupfe, M A
De Beer, S J	Ngubane, H
Dyani, Z D	Nhlanhla, J (Alt)
Fankomo, F C	Powell, P
George, M E (Alt)	Schreiner, J
Khoza, T S	Selfe, J
Love, JY	Sisulu, L
Makgoti, H	Turok, M E (Alt)
Malan, T J	Vadi, I
Malatsi, D M	Welgemoed, P J
Marais, G	Wiley, M G E
Moatshe, P	Woods, G G

N Nyoka and K McKenzie were in attendance.

1. OPENING AND WELCOME

Ms Kgositsile opened the meeting and welcomed members at 11:45.

2. TABLING OF MINUTES OF THE PREVIOUS MEETING

The minutes were adopted.

**3. TABLING OF THE CORE GROUP REPORT AND ESTABLISHMENT OF
SUBTHEME COMMITTEES**

- 3.1 The meeting agreed that four Subtheme Committees be established,
as per recommendation of the Core Group.**

The Subtheme Committees are:

1. Public Administration:

- 1.1 The Public Service Commission
- 1.2 The status and role of the Public Service
- 1.3 Establishment, powers and functions of the Public Service Commission and Public Service
- 1.4 Traditional Authorities
- 1.5 The S A Elections Commission

2. Financial and Public Enterprise Institutions:

- 2.1 Auditor General
- 2.2 Reserve Bank
- 2.3 Financial and Fiscal Commission
- 2.4 Public enterprises

3. Transformation and Monitoring:

- 3.1 Public Protector
- 3.2 Human Rights Commission
- 3.3 Gender Commission
- 3.4 Commission on restitution of land rights

4. Security Apparatus:

- 4.1 The Police
- 4.2 The Military
- 4.3 Intelligence

3.2 Submission of nominees for Subtheme Committees by parties

3.2.1 Subtheme 1 : Public Administration

- ANC:** Fankomo, F C
George, M (Alt)
Love, J Y
Mokitlane, C
Skweyiya, Z S T (Alt)
Tshabalala, M (Alt)
Vadi, I
- NP:** Gogotya, J
Malatsi, D
Watson, A
Alant, T
De Beer, S
- IFP:** Hlengwa, M
Ngubane, B
- DP:** Jordaan, J A
- FF:** Chiole, J

3.2.2 Subtheme 2 : Financial and Public Enterprise Institutions

ANC: Davies, R
Nair, B
Makgoti, H
Erwin, A (Alt)
NP: Welgemoed, P
Marais, O
Jacobsz, F
IFP: Woods, G
Bekker, H
DP: Jordaan, J A
Andrew, K M (Alt)
FF: Botha, W J
Chiole, J (Alt)

3.2.3 Subtheme 3 : Transformation and Monitoring

ANC: Kgositsile, B
Moatshe, P
Fenyane, S L E
Mokoena, L M
Netshimbupfe, M A
Mompoti, R
Turok, M
NP: Camerer, S
Malan, J
Jacobsz, F
Balie, A
IFP: Ngubane, B
DP: Selfe, J
Smuts, D (Alt)
FF: Louw, L
Botha, W J (Alt)

3.2.4 Subtheme 4 : Security Apparatus

ANC: Sisulu, L
Mti, L M
Mthintso, T
Schreiner, J
Nhlanhla, J
Fraser-Moleketi, G (Alt)
Mufamadi, S (Alt)
NP: Alant, T
Gogotya, J
Malan, J
IFP: Powell, P
Khoza, T

DP: Selfe, J
Gibson, D (Alt)
FF: Groenewald, P J
Louw, L (Alt)
Chiole, J (Alt)

3.2.5 The PAC had not finalised its members.

3.3 Participation of parties in Subtheme Committees

It was agreed that each party can nominate any of its members from either House, other than its Theme Committee members, to serve in Subtheme Committees.

4. DEVELOPMENT OF A WORK PROGRAMME

4.1 It was agreed that Subtheme Committees would meet and compile reports on the work programme to be submitted to the Secretariat by 28 October 1994 using the following guidelines as laid down by the Constitutional Committee:

- 4.1.1 Which constitutional issues within the broad Theme need to be attended to;
- 4.1.2 Which of these constitutional issues need to be dealt with as a priority;
- 4.1.3 Which are the areas of overlap with each other in the Theme committee;
- 4.1.4 Which constitutional issues need to be dealt with in Commissions;
- 4.1.5 Which of constitutional issues do the committee anticipate will require the submission of separate reports;
- 4.1.6 How many reports are to be issued and what are the deadlines for the submission of the same;
- 4.1.7 What are the structures and the who are the role players that are to be consulted;
- 4.1.8 What community and media liaison assistance will be required to facilitate the committee's work;
- 4.1.9 Who and what technical assistance will be required to support the committee.

4.2 It was agreed that Subtheme Committees would elect their own Chairpersons and Secretaries.

5. CLOSURE

The meeting rose at 12:15 and Subtheme Committees convened their first meetings.

CONSTITUTIONAL ASSEMBLY

2ND MEETING OF THEME COMMITTEE SIX - SPECIALISED STRUCTURES OF GOVERNMENT

AGENDA, RECOMMENDATIONS AND DECISIONS

No	Item	Recommendation from the Core Group	Decision
1.	Opening and welcome		Meeting chaired by Ms Kgositsile.
2.	Tabling of Minutes of the previous meeting		Minutes adopted.
3.	Tabling and discussion of the Core Group report and establishment of Subtheme Committees.	<p>A. <i>Theme Committee be divided into the following Subthemes:</i></p> <p>1. Public Administration:</p> <p>1.1 <i>The Public Service Commission</i></p> <p>1.2 <i>The status and role of the Public Service</i></p> <p>1.3 <i>Establishment, powers and functions of the Public Service Commission and Public Service</i></p> <p>1.4 <i>Traditional Authorities</i></p> <p>1.5 <i>The S A Elections Commission</i></p> <p>Subtheme Committee to be established</p> <p>2. Financial and Public Enterprise institutions:</p> <p>2.1 <i>Auditor General</i></p> <p>2.2 <i>Reserve Bank</i></p>	Recommendations of Core Group endorsed.

		<p>2.3 <i>Financial and Fiscal Commission</i> 2.4 <i>Public enterprises</i> Subtheme Committee to be established</p> <p>3. Transformation and Monitoring: 3.1 <i>Public Protector</i> 3.2 <i>Human Rights Commission</i> 3.3 <i>Gender Commission</i> 3.4 <i>Commission on restitution of land rights</i> Subtheme Committee to be established</p> <p>4. Security apparatus: 4.1 <i>The Police</i> 4.2 <i>The Military</i> 4.3 <i>Intelligence</i> Subtheme Committee to be established</p> <p>B. TRADITIONAL AUTHORITIES <i>That an inter-Theme Committee meeting be held to discuss Traditional Authorities.</i></p>	
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3.1	Submission of nominees for Subtheme Committees by parties		<p>Subtheme 1 : Public Administration ANC: Vadi I, Love JY, Mokitlane C, Tshabalala M, Skweyiya ZST (Alt) and George M (Alt). NP: De Beer S, Alant T, Watson A, Malatsi D and Gogotya J. IFP: Hlengwa M, Ngubane B DP: Jordaan J A, FF: Chirole, J</p> <p>Subtheme 2 : Financial and Public Enterprises ANC: Davies R, Nair B, Makgoti H and Erwin A (Alt). NP: Welgemoed P, Marais O and Jacobsz F. IFP: Woods G and Bekkers H DP: Jordaan JA and Andrew, K M (Alt) FF: Botha WJ and Chirole J (Alt)</p> <p>Subtheme 3 : Transformation and Monitoring ANC: Kgotsile B, Moatshe P, Fenyane SLE, Mokoena LM, Netshimbupfe MA, Mompoti R and Turok M. NP: Camerer S, Malan J, Jacobsz F and Balie, A IFP: Ngubane, H DP: Sefle J and Smuts D (Alt) FF: Louw L and Botha WJ (Alt)</p> <p>Subtheme 4 : Security Apparatus ANC: Sisulu L, Mti LM, Mthintso T, Schreiner J, Nhlankhla J, Fraser Moleketi G (Alt) and Mufamadi S (Alt). NP: Alant T, Gogotya J and Malan J IFP: Powell P and Khoza T DP: Sefle J and Gibson D (Alt) FF: Groenewald PJ, Louw, L (Alt) and Chirole J (Alt).</p> <p>The PAC had not finalised its members</p>
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3.2	Participation of parties in Subtheme Committees	1. <i>Theme Committee to make a decision on participation of parties on Subtheme Committees, taking into account that the creation of Subtheme Committees has stretched the capacities of smaller parties to a limit.</i>	3.2.1 Each party can nominate any of its members from either house, other than its Theme Committee members, to serve in Subtheme Committees, provided that no unfair advantage - in terms of numerics - accrues to smaller parties.
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4.	<i>Development of work programme</i>	<p>1. <i>Subtheme Committees should be established and present reports by no later than 31 October 1994 to enable the Theme Committee to finalise the work programme by 15 November 1994.</i></p> <p>2. <i>Subtheme Committees to elect Chairpersons and Secretaries</i></p>	<p>4.1 Work Programme should be the product of discussions and reports from Subtheme Committees.</p> <p>4.2 Subtheme Committees to work on own programmes, in accordance with the Constitutional Committee guidelines, and to report to Theme Committee by 31 October 1994.</p>
5.	Any other business		None
5.1			
6.	Closure		The meeting rose at 12h15 and Subtheme Committees held their first meeting.

SUB-THEME GROUP THREE - THEME GROUP SIX
TRANSFORMATION AND MONITORING
DEVELOPMENT OF A WORK PROGRAMME

31 OCTOBER 1994

1. In addressing the issue of transformation and monitoring, the following four sub-structures need to be attended to by the sub-theme group:

i. The Public Protector: this office has just been established at National and Provincial level as a for mechanism government actions. The empowering sections are 110-114 of the constitution. The Act of Parliament was passed unanimously after extensive revisions by the select committee.

ii. The Human Rights Commission: This is covered by sections 115-117 of the constitution. The Bill to establish the Commission is still before a Select Committee of Parliament.

iii. Commission on Gender Equality : This Commission was included in the constitution (Sections 119,120) at the last minute. A draft bill was circulated but was unacceptable to women from all parties.

iv. Land Restitution Commission: A bill to establish the Commission is being considered by a Select Committee.

2. Three of the above bodies are currently being processed by Parliament. The fourth, the Commission for Gender Equality has not yet been debated. This should therefore be prioritized by the sub-theme group.

3. The sub-theme group does not consider that there are areas of overlap within the Theme Committee.

4. None of the structures being considered by the sub-theme group needs to be dealt with in Commissions

5. None.

6. The sub-theme group proposes that it submits one report in four sections by April 1995.

7. In the case of the public protector, the human rights commission and the restitution of land rights commission the operations of these bodies will be monitored, and (in the case of the public protector) the operations of the ombud will be studied.

In the case of the commission for gender equality, the sub-theme group proposes to ask the Minister to set up an ad hoc committee to establish the Commission and define the objects, structure and mode of operation. Consultations will be held with the National Women's Coalition and other bodies including church, sporting and agricultural unions. Public hearings will be held in all provinces by March 1995

8. Extensive community and media liaison will be required around the four structures, publicising public hearings, focussed on ordinary people (including radio, newspapers and leaflets) and designed to develop a human rights culture.

9. This sub-theme group will require at least one full-time expert to undertake research, structure consultations and analyse inputs. It will also require an administrative and public-relations person to set up the programme of community and media liaison.

CONSTITUTIONAL ASSEMBLY

MINUTES OF A JOINT MEETING OF CORE GROUPS OF THEME COMMITTEES 5, 6 AND 7 WEDNESDAY 26TH OCTOBER 1994 AT 08H00

PRESENT: (D. Schutte, Chairperson)

Dyani Z.D.
Ebrahim G
Hlengwa I M W
Ngwane L
Rabie J

In attendance: Cetwayo N, Fahrenfort P, Nyoka N, Taft N, Van Eck E.

1. OPENING AND WELCOME

- 1.1 The meeting was opened by Mr. D. Schutte who chaired the meeting.
- 1.2 The purpose of the meeting was to establish areas of overlap between Theme Committees 2, 5 and 6 with regard to Traditional Leaders.

2. CONSULTATION OF TECHNICAL EXPERTS RE TRADITIONAL LEADERS

- 2.2 The committee consulted the Constitutional Assembly document dated 2nd September 1994 containing the resolutions on the establishment of Theme Committees. The following interpretations were agreed to:
 - 2.2.1 Theme Committee 2 - Structure of Government - Point 2.10 would be interpreted to mean to represent Traditional Leaders in structures of government apart from Traditional structures.
 - 2.2.2 Theme Committee 5 - Judiciary and Legal Systems - Point 5.2 interpreted to mean Indigenous Law and Point 5.4 interpreted to mean Tribal Courts.
 - 2.2.3 Theme Committee 6 - Specialised Structures of Government - Point 6.7 interpreted to mean Traditional Tribal Authorities, i.e. Tribal Structures of Government.
- 2.3 It was agreed that a joint commission consisting of all 3 Theme Committees be appointed to hear evidence from Traditional Leaders and other relevant bodies.

3. CLOSURE

The Meeting rose at 08h25