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**A09**

**CONSTITUTIONAL  
ASSEMBLY**

**THEME COMMITTEE 1**

**CHARACTER OF  
DEMOCRATIC STATE**

**7 FEBRUARY 1995**

**ROOM M515**

***DOCUMENTATION***



**CONSTITUTIONAL ASSEMBLY  
MINUTES OF THE FOURTH MEETING OF THEME COMMITTEE 1**

**CHARACTER OF THE DEMOCRATIC STATE  
WEDNESDAY 01 FEBRUARY 1995 (08H30)**

**Present**

**Marais P G (Chairperson)**

Booi M S	Chiba L
Chikane M M	Chiwayo L L L
Cwele C S	Dyani M M
Goosen A D	Gumede A D
Hangana N E	Kekana N N
Janse Van Rensburg A P	Lekgoro M K
Mabuza M C	Macozoma S J
Mahlangu N J	Marais A
Moorcroft E K	Mokaba P
Meshoe R K	Mokaba P
Mngomezulu P G	Mtshali L P H M
Momberg J H	Mukhuba T T
Mulder P A W	Ncube B
Niehaus C G	Nobunga B J
Routledge N C	Schoeman E A
Seaton S	Sisulu A N
Van Deventer F J	Van Zyl I D
Vilakazi B H	Williams A J

L Rammable and K Radu were in attendance.

**1. OPENING**

The meeting was opened by the Chairperson.

**2. Minutes of the previous meeting**

The meeting adopted the minutes, noting Mr Momberg's unacknowledged apology.

**3. Matters arising**

It was agreed, that a sub-committee which would draft the reports for the CC should be formed. The committee would comprise of 2 members from the majority party and 1 from each other party. Parties had to submit the names of the members of the sub-committee to the Secretariat by the 2 February 1995.

**4. Appointment of Technical experts**

On Monday 6 February 1995, a workshop has been arranged in order to brief the technical experts and to familiarise them with the process. On Tuesday, 7 February they will be made available to the all the Theme Committees.

**5. Discussion on Party submissions**

The parties continued talking to their submissions. They were also allowed to raise questions and points of clarification, it was emphasised that intensive debates would be invited during discussions on substantive issues.

**6. General**

The commencing time for meetings of the Theme Committee was changed from 08h30 to 09h00.

It was also announced that both the PAC and the ACDP would talk to their submissions in the meeting of 7 February 1995.

**7. Closure**

The meeting rose at 09H00.

*R. Martin*

03.02.1995

**PARTY**  
**SUBMISSIONS**



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516

30/01/95

30 JANUARY 1995

**THEME COMMITTEE 1 - SUBMISSION BY THE PAC**

**DEMOCRACY AND THE CHARACTER OF THE STATE**

PAC believes in the classical definition of democracy, viz, a government of the people by the people for the people. It, thus, believes that all citizens of South Africa are the people, naturally entitled to a democratic rule.

The entirety of the constitution shall enshrine legal principles that buttress and protect the democratic rights of all citizens of the South African State.

Allegiance to the state shall be premised on the visible democratic actions and processes followed by the government of the state.

Periodic elections of the government should be constitutionally established and protected.

The Constitution shall be the supreme law of the country.

The bearing of rights by the individual citizens of the state shall not be based on any phenomenon except citizenship. There shall, therefore, be no regard to race, class, status, sex or religion in the exercise and enjoyment of rights.

The constitution shall legally and philosophically view the citizens as of equal worth in everything within its ambit.

The state shall be a constitutional one. Parliament shall be the supreme law maker under the sovereignty of the constitution.

There shall be a unitary state aiming to merge the culturally heterogeneous people of this land into one politically, economically and socially homogeneous nation through politically unhindered evolutionary process.

A Bill of Human Rights shall protect the fundamental and non-fundamental rights of all citizens without any regard to race, culture, sex, class, status or creed. It is only the right of the individual that shall be protected.

The government shall be accountable to the civil society via its elected representatives, the National Assembly, primarily, and directly through its social formations when such a need does arise.

There should be one legislative chamber, the National Assembly with revisionary process of the statute making resting with the Select Committees.

The executive of the government shall be accountable to Parliament.

An independent constitutional court shall be the bulwark of the rights of citizens.

There shall be a three tier government, viz ,

- (a) National
- (b) Provincial and
- (c) Local

The provincial and Local governments must serve the purpose of the decentralisation of administrative functions and also that of representing and enlightening the National government on the peculiar problems and wishes of their respective domains.

M Dyani - MP

# SUBMISSION BY THE ACDP THEME COMMITTEE ONE

## I DEMOCRACY

1. We would like to see a multi-party democracy with regular elections.
2. A common citizenship for all and a system of voting based on a common voters roll and proportional representation.
3. There must be a clear separation of powers between the legislative, executive and judiciary.
4. All basic God-given human rights must be protected by law.
5. The government in power must be subject to the constitution which must be the supreme law of the land.
6. The individual's right to life, liberty and property must be guaranteed and protected.

## II CHARACTER OF STATE

1. To ensure that the government is kept as close to the people as possible, we would like to see a small but effective central government and strong provincial and local governments.
2. The powers of the central and the provincial governments must be clearly defined and entrenched in the constitution.
3. Parliament, as the law maker, shall comprise of two Houses, viz., the National Assembly and the Senate, which will be representing provinces at national level.



# **ANC SUBMISSION TO THEME COMMITTEE ONE ON THE CHARACTER OF THE STATE AND DEMOCRACY**

## **CHARACTER OF STATE**

- 1) South Africa shall be a united and undivided nation.
- 2) The Constitution shall commit the country to a non-racial and non-sexist order based on the inherent dignity of all persons.
- 3) There shall be a Bill of Rights guaranteeing all accepted human rights including socio-economic rights that shall be applicable against all sources of power.
- 4) South Africa shall be a multi-party democratic state.

## **DEMOCRACY**

- 5) There shall be regular elections on a common voters' roll based on adult universal suffrage.
- 6) There shall be elected government at Regional and Local levels whose powers shall be set out in the Constitution, but whose powers shall be subject to the need for national uniformity, national reconstruction and development and the values in the Bill of Rights.
- 7) Government shall be formed by the majority party.
- 8) Parliament shall be the supreme law-maker, and the expression of the will of the people. The executive will be accountable to Parliament.

