

CONSTITUTIONAL ASSEMBLY

**Theme Committee 1 Meeting
23 January 1995**

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Theme Committee 1 Meeting - 23 January 1995 (1):

Chairperson Area in this vicinity is in the hall now. May I say at the outset welcome to all of you present. It is very kind of you to come to this meeting. The purpose of this meeting is just to, with the benefit of the management meeting that we have just had, to just run through this document that we have circulated to you and to have an outline discussion, about the content of that document and to ensure that as we get our works programme properly launched, from today and the days that follow, that we will all know exactly what is expected of us, and that we will be able to work in tandem with one another. May I right at the outset also take this opportunity of wishing the chairpersons of the various Theme Committees well. I think it speaks for itself that it is a tremendous responsibility on the shoulders of each and every one of you and we are very appreciative of the fact that you are accepting this responsibility and I am sure that the work programme goes well. We ... it is not a state secret that we have severe time constraints, time limits, and deadlines that we will have to meet as we go

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along, and I thank you so much for making yourselves available and serving in this capacity that you have taken on. May I just say that I, we have apologies for Mr Ken Andrew and Professor Dirk du Toit. That is the only apologies that I know of. Are there any other apologies?

Unknown Mr Chairman, I tender apology for Mr Mtshali. I don't think he has received a notification of this meeting. He was up and down I don't think that he has got it.

Chairperson Okay, thank you so much for offering that apology, but I am sure his colleagues will deal with the substance of the resolutions of the discussions with him. Ladies and gentlemen we all have, sorry ...

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Mr Van der Merwe Chairman, Mr Falgate.

Chairperson Mr Falgate, thank you Mr van der Merwe.

Mr Van der Merwe May I also at this stage inform you that Mr Falgate has undergone surgery and that he will be absent for some time.

Chairperson Thank you Mr van der Merwe, we took note of that and the management committee, but thank you for mentioning it here as well, and I would appreciate it if you would also convey the best wishes of this meeting to Mr Falgate and

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a speedy recovery. Thank you very much. Ladies and gentlemen, I take it that you all do have the, what is labelled "The Briefing Document", for the joint meeting of chairpersons of Theme Committees. You are all in possession of that document. I do not intend to go through that document paragraph by paragraph and sentence by sentence, but if I may just broadly speak to that document and then put the document, but in particular also the Work Programme to you and with assistance of the Executive Director, Mr Asan Ebrahim and his staff, we will try to entertain your questions. I may just say that for those of you that are quick to conclude that the chairperson Mr Ramaphosa is on holiday, it is not true. It is simply because he worked quite hard in a previous meeting and decided to down tools, and said that it was not fair that he should chair the whole morning, and that is the reason why he is going to be an active participant sitting next to me and I am chairing this meeting by arrangement then. Ladies and gentlemen I am sure that the work, that we have gone over in the previous weeks and months are set out in this document, but just to refresh the memory, and your

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memory is that the Constitutional Committee has, in broad terms, endorsed this framework. However, it needs to be emphasised once again that we regard it as flexible and we would evaluate it as we go, as we go along. It is clear that there is comprehensive work that has to be done. What we try to do is to let you have the benefit of the overall picture of what is happening, and I believe if I may just make one point, it is of, of paramount importance that, albeit Theme Committees are involved and in their particular mandates and their particular briefs, there is a bigger picture evolving.

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That bigger picture will evolve as the reports come to the Management Committee that will process it, and place it before the Constitutional Committee, the Constitutional Committee in turn will place it before the Constitutional Assembly. That is the Management Committee's responsibility really to ensure that the Theme Committee's, the Constitutional Committee and the Constitutional Assembly works according to the work programme. Now the major task of ensuring that the deadlines are adhered to, is also the task of the Management Committee, but the Core Groups and the chairpersons in the Theme

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Committees that almost speaks for itself, has a tremendous responsibility to ensure that within the ambit of those Theme Committees you do not lose sight of the time frames as set out in the broader work programme. And I can just imagine that we will, as the heat builds up in those Theme Committees, we will have a great responsibility to ensure that it works well. Now you will all be assisted, and may I say, ably assisted by the Secretariat, but it is not their function to in any way engage in the political process as such. They will be there to ensure that administratively speaking, everything runs according to the work programme. But having said that, I cannot help but to emphasise the point that different political parties also has a tremendous responsibility to place before the Theme Committees, before the Constitutional Committee, their particular submissions. Now the chairperson has said on more than one occasion that this is a very important year, that this is the year of the Constitution and we can only meet those obligations and those objectives if we are dealing with proper submissions. I will ask Mr Ebrahim to just share some, to share some of the submissions, not in

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terms of substance but in terms of what has been placed before us already. However, there is a tremendous responsibility on political parties to place before the Theme Committees and live up to the expectations as far as their submissions are concerned. The Chairman, because he would like to think and he is right, comes from a greater democratic approach than I come and is in a way is very, very democratic when he makes these kind of statements, because I come from a more authoritative background and I am not so tolerant as he is, so I think that is why I am in the chair today. By saying to me that you are, if we do not receive the submissions timeously, we are simply placed at a disadvantage. We simply, in terms of the new concepts and the new retory*, please help us and let us have your submissions timeously. Thank you so much. That is all I have to say at this moment. I will, I can now call on Mr Ebrahim to continue the discussion and explain the work programme to you and then we could have a broader discussion.

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Mr Ebrahim

Thank you Chairperson. The first point I would like to make is that I just want to reiterate the role of the chairpersons

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and the Core Groups, but particularly the chairpersons in making sure that we reach our objectives. There have been a call in from various of the, several of the Theme Committees during the course of last year relating to the relationship between the Management Committee and Constitutional Committee, which takes the various decisions and the Theme Committees and some of the other Theme Committees have been feeling a little left out, and there may be a need for a much more, perhaps there may be room for a forum of this sorts so as to ensure that this relationship is strengthened. May I say that with regard to the work programme, we have prepared a draft document which is placed on pages 8 and 9 of the pink document, depending on which document people are looking at. The pink document, it is pages 8 and 9. The, that is the table ...

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Chairperson

If you do not have a pink document, people have different colours of documents, but the pink one is the work programme.

Mr Ebrahim

The work programme, the table that has been provided. Now in terms of the decision of the Constitutional

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Committee, this work programme barring Block 1, remains flexible, and that it is work, it is only the issues in Block 1 affecting each of the Theme Committees that have been agreed to by the Constitutional Committee. The other items relating to the following blocks are matters which still need to be clarified. So the first point that needs to be made is that the work programme is no more than a guide, a point of reference, and as a means to assist the various Theme Committees. It is only with regard to Block 1 where there has been agreement by the Constitutional Committee which is the basis on which Theme Committees will be following matters. In that respect in terms of the CA resolution it is the role and the task of the Management Committee to make sure that the work is co-ordinated as between the various Theme Committees. Now an issue which came up in the Management Committee and which needs to be raised here as well, is that many members of Theme Committees have been asking the question what happens with regard to the overlaps. Matters which affect more than one Theme Committee. This is one of the matters which are also going to have to be resolved by the Management

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Committee being responsible for the process so as to ensure that matters develop in an organised way and that we don't have unnecessary duplication and two structures deciding on the same issues in different ways. So the task of the Management Committee will be to try and find a way in which there is some level of coherence between the issues being discussed between the various Theme Committees. Then the question of the Core Groups, as stated by the chairperson, is incredibly important. And if I may deal just with a bit of the question of the submissions.

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To give members an idea, the administration put out an advert for submissions on the first block, that is after the Constitutional Committee had agreed upon, this advert came in the second week of December and between the second, the middle of December and round about the 10th of January, which is essentially public holidays, we received submissions which is really contained in this file and is still coming in big and fast. Now in general we are quite overwhelmed and excited with the fact that we have received so many submissions to give people a broad overview as at about the 10th or the 11th and I have lost

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count because they keep coming in, there have been more than 60 submissions, closing in on 70 submissions. The submissions are made up of, political parties unfortunately were the least number of submissions from political parties. Civil society and organised structures about a third of the submissions that we have received, and an equal number to that from civil society, formations have called in to our offices to say that the timing is just off, they need a little bit more time to make their submissions and this has been agreed to, as we are not going to bar people from making submissions. But the important point is that the large majority of the submissions that we have received, are from ordinary individuals. Fairly competent, fairly organised and reflecting a great amount of enthusiasm amongst the citizens in this process itself, and I have no doubt that people are going to be swamped with a large number of submissions. Now tying that into the question of the Core Groups, the Core Groups and particularly under the leadership of the chairpersons, are going to have to have the responsibility of ensuring that these submissions amongst other aspects of the functions of the Core Groups,

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are attended to properly and effectively. It is going to be a large amount of work and hopefully the Core Group will be able to carry out the work under the leadership of the chairpersons. Now aside from that responsibility, our Core Groups will have to make sure that Theme Committee agendas are prepared timeously and in an organised fashion, and looking at the broad framework with regard to the programme itself. Secondly is that this is being the substantive period in writing the Constitution, it is one of the fundamental aspects of process, is going to be the development of our reports. The reports from the Theme Committees, through the Management Committees, to the Constitutional Committee and again the Core Group is going to have that responsibility of making sure that reports are filed timeously, even if it is not the final report, a draft report at least briefing the Constitutional Committee as to how far the developments with regard to particular areas of discussion, have gone, and that will facilitate matters with regard to co-ordination and process. Then invariably as we are finding in the case with Theme Committees, sets our suspicion in the administration having regard to the type of

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discussions in the Theme Committees, is that various other Theme Committees want to look at issues perhaps in, in smaller groups and so on and there will be different activities undertaken by a Theme Committee. Again, it is the responsibility of the Core Group to make sure that the various activities undertaken within the Theme Committee are co-ordinated and organised in a proper way and given the necessary leadership. Then with regard to the Theme Committees they are going to be engaged in all sorts of meetings, from public participation to workshops, to seminars, to meetings in forums of this sort and so on. We can't have all 30 members of a Theme Committee attending those meetings. It is going to be the responsibility of the Core Group to organise proper delegations so as to make sure that the Theme Committee is represented in one of the meetings. Now generally in the work programme you will note that we have slotted most of the weekends as public participation activities. Invariably not all members can attend all public participation activities. Simply because members have other commitments aside from Constituency Commitments, standing committees and all sorts of other,

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including their personal commitments, and so it is going to be organising proper delegations to attend the various activities for the public participation programme. Then lastly it is to ensure that the Theme Committee tasks and decisions are dealt with effectively and that the deadlines that we set for ourselves are realistic and are meaningful. Now having said that the work programme whilst it may be a flexible work programme, and one that requires input from Theme Committees, I should add a word of caution in that the work programme cannot be left until the last moment.

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It would be important for Theme Committees to consider the work programme as early as is possible. Simply because your public participation activities, conferences, seminars and so on, are based on the actual content of your discussions. Now unless there is some clarity and some certainty with regard to the work programme, it makes a little bit of nonsense of trying to organise your public participation programmes, because you can't really organise a public hearing or any other activity even if it is a conference in a period of two weeks, or three weeks. You require a little bit more time to ensure that those events are

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efficient and effective, hence it is necessary that there is some level of certainty with regard to the development of our work programmes. The question of the chairpersons, has been dealt with and I don't intend to deal with that any further. I would like to just deal with some aspects of the secretariat. I would like to give all chairpersons an assurance that we have organised our secretarial services, and the secretariat that will be providing assistance to the various committees and an assurance that we have organised our secretariat in a pretty effective way and we have no doubt that they will be able to facilitate your work effectively and efficiently. I need to say that whilst there is generally the same compliment of staff, that will be carried forward and carried through from our last session. Theme Committee 2 has some changes effected to it. In Theme Committee 2, and I will ask the relevant members of staff to stand up so they are clearly identified, they have as managing secretary James Nene, and we have Paula Smith as the secretary for that Theme Committee. Thank you. For Theme Committee 6 which has organised various Sub-Committees, I want to give you people also an

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assurance that the proper and adequate secretarial facilities have been provided and, so as to secure the efficient organisation of your work. Again just with tying in the aspect of the Core Groups and the chairpersons and its relationship to the secretarial staff, an effective Core Group and chairing leadership of a Theme Committee will ensure that the secretarial support is as efficient and effective as possible, and is organised in a proper way. To assist matters, a matter that has come up over the last few weeks, at least over the last few months during last year, were that various Theme Committees found a need at various points in time to meet with other Theme Committees and other Core Groups. These type of joint meetings will be much more effective than they have been in the past, if it is centrally organised and co-ordinated through the administration, particularly during this period of time when people are expected to cater for a large number of meetings and are effectively going to be over worked. So if Theme Committees or Core Groups wish to organise with other Theme Committees or Core Groups, sufficient enough notice should be given to the administration so as

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to ensure that we co-ordinate and organise these as effectively as possible. Then with regard to the, related to the assistance and support given to Theme Committees, the question with regard to Technical Committees. The matter with regard to Technical Committees have as yet not been resolved, so when Theme Committees start now, they do not effectively have any technical assistance, although we anticipate that in the next week or two that may not be the most important aspect of a Theme Committee's functioning. I merely wish to report that as agreed by the Management Committee, the Sub-Committee dealing with the Technical Committees will be meeting today, and depending on how speedily they are able to resolve that, from the administration's point of view, we will try and secure that, and ensure that each of the Theme Committees are provided with the proper technical experts and assistants that they require. Just coming back as a final word on the question of the submissions, everybody will by now have realised that there is a large number of submissions that are expected, and we cannot, and obviously we cannot expect each member of a Theme

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Committee let alone a Core Group member, to actually have read each and every submission. We are looking at various processes without adding any value judgments to the determination of these submissions, to assist members in processing the submissions. We have already started and members will find when they start with the Theme Committees, in providing members with an overview of the nature of the submissions, as well as a synopsis indicating what submissions there are and what is contained in the various submissions, so that members are easily able to identify the relevant submissions that are to be provided, that are being distributed. Can I just say at this point in time from the administration's point of view, in that we are only going to provide a synopsis and an overview, and where possible, if at all, executive summaries if it is feasible, but these will be no more than tools to assist members. They are not intended to have any political significance, or importance. They are merely as a guide, as an assistant to assist members of the Theme Committees in terms of what is contained in the submissions. So please at no point in time do we want to be understood to be

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providing some sort of political judgment with regard to the nature of the various submissions, we are merely trying to look at various tools which members could use to extract the relevant information from Theme Committees. In that regard we are looking, we are in the process of computerising not only our present submissions, but we are also looking to computerise the submissions made to the, at the World Trade Centre so all of that information, hopefully will in the not too distant future be available on computer which would mean that access to the information will be much more efficient, organised and much more effective and details of that will be made available as soon as we have been able to conclude the necessary agreements, we will give a detailed report on that. Chairperson, perhaps I should leave it at that, and if there are any questions or clarifications that are required ..

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Chairperson Thank you very much. I see that Mr Smith, and Mr Tony Leon ...

Mr Smith Thank you Chair. I wonder if I could ask three, ask Mr Ebrahim a question on this work programme, or rather the schedule. We have got, today is the deadline, for the first,

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of the first block marked "1", so at the end of the day all the submissions are handed in. But then as you go on to Block, 2, 3, 4 etc, we are now in a period where Theme Committees can revise those, but in terms of the programme, Block 2 has to be in by the first. What is the process between, previously all the Theme Committees had to devise a work programme which went to the secretariat and which pulled it together and then it went through to the Constitutional Committee, prior to being accepted in its format. That is a similar process that we are now to agree to the next stage, or will each Theme Committees simply unilaterally decide on how it wants its programme to be structured. Thank you.

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Mr Ebrahim

Chairperson, as I understand it, it is really not the role of the director or the secretariat to determine a Theme Committee's programme. A Theme Committee will decide on its own programme, but in conjunction with the Management Committee so as to ensure that whatever various Theme Committees decide upon is organised and co-ordinated in a proper way, and otherwise we would have Theme Committees all discussing the same issues and

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deciding, arriving at different decisions on the same matter. But the role of the Management Committee will be co-ordinate it. The appeal that I have made is that whilst Theme Committees are requested to make an input in terms of their work programme and how they see it unfolding, they would have to as soon as is possible and feasible, submit those reports and those programmes, to the Management Committee for their consideration so that they are able to co-ordinate the various programmes in an effective way.

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Chairperson

Mr Leon?

Mr Leon

Chairperson, there are two questions which arise on what has been said so far, which I would like some clarification on. The first is this, I am impressed, we all are with the response of the public to the advertising campaign and so forth, but the question is this. We can ask people to make submissions on matters in general, and we can ask people to make submissions in particular, along the lines of the work schedule which is already being published in the newspapers, but actually those submissions will be of very little value, if that is where it ends. Now what I want to ask

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is this, the real way you have interaction with the public is when the actual Theme Committee or Constitutional Assembly has actually taken a view point itself, it is then necessary for that view point to then be presented to the public before it is finalised and to get the feed back on the agreed position within a particular Theme Committee. At the moment we are already engaged in one half of the process, and that is to get people's views upfront, on a particular issue such as the right to life, or freedom or information, or whatever, they will make submissions. The Committee then sits down and the Theme Committee then considers it and comes up with a draft proposal, is it then intended to take that draft proposal back to the public and get their inputs on it, before we finalise it, because if we don't go through that stage, then the public participation really becomes a theoretical exercise rather than one which really empowers people. The second issue, and I don't know if you wish to deal with it now, or tomorrow, it involves the Theme Committee which I am involved in, which is the one dealing with the Bill of Rights. The way the work programme has been organised, Mr Chairperson, is

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basically as to take the issues and to divide them up over several weeks, but the issues are very different. In other words you can resolve, I would say on the Bill of Rights half of these could be settled at one meeting, because they are not going to be contested, and the seriously contested matters are going to require a far greater time to be considered. Is that going to be accommodated and the other thing that strikes me about the work programme, a third thing that I would like to raise, is that we have taken a whole category of events, of facts in relation to the Bill of Rights, Fundamental Rights, which are all agreed that these sort of matters need to go into a Bill of Rights, but according to the schedules as I understand, we have left very little space over for matters which might be put into the Bill of Rights which aren't currently in the draft Bill of Rights. Now how are we going to accommodate that within the rather rigid time frames that are binding?

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Chairperson

I will ask Mr Ebrahim to respond but, I think the gist of what we are saying is that within the ambit of the greater programme you are very much in charge of the substance and the programme yourselves in that Theme Committee

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so that, that I mean you are the captains of that Theme Committee. But we are only determining the greater outline and the greater framework of it, so how you re-organise the issues, before you as from Blocks 2, further down, is something that you will have to debate within your Theme Committee, but I would love to ask Mr Ebrahim also to respond please.

Mr Ebrahim

Chairperson, thank you, you have put it more eloquently than I could. The first question however, is a very important question and unfortunately is really a political question, more than an administrative one. But I will attempt to answer it as best as possible in terms of the resolutions which we have. With regard to the question of public participation this is taken at different levels. The submissions that are, that are being received and that are to be processed by Theme Committee is the first level of public participation and involvement. The second level of public participation and involvement is the actual physical public participation and involvement in various public hearings and so on. The third level of public participation and involvement will be when a draft is prepared and

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published for public comment and consideration, that would be the third level of public participation and comment. And the fourth level would be the normal public participation activities, whether the various meetings or statements made by members of the public, when the matter is finally being discussed during the phase of the final argument and adoption of the Constitution. So there are at least about five different areas and aspects in respect of which the public will be participating in this activity and the public will be part of this entire process as it were. With regard to the second point, the Chairperson's response I think is the proper one, in that you are really the captains of this process and that the work programme that has been provided has been provided merely as a draft discussion document, as an aid, as a guide, it is for Theme Committees to argue that they can deal with 15 of the 20 issues in the first two meetings, because they are non contentious and the remaining five issues for the rest of the meetings, and certainly the role of the administration and I would imagine that the Management Committee would consider that very favourably, but it is really for the Theme

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Committee to decide how it wishes to change that process. The only point that I made that if you do wish to change it, then change it as soon as is possible, so that there is some level of certainty with organising member's time, otherwise we tend to falter in administratively facilitating the type of programme which you wish to have. The third matter which you raise, is outside matters. Certainly there may be other outside matters which are not incorporated in the work programme, and I have no doubt that as discussion goes ahead, in various Theme Committees people will introduce new elements and new aspects which they wish to have discussed in the Theme Committee, certainly this must be introduced and raised, and I would imagine that the Management Committee should take a keen interest in these developments as well with regard to the broader framework as to how the various Theme Committees would be working, and relating to each other and with regard to the broad time frames as well. Thank you chairperson.

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Chairperson

Thank you so much. Mr Ramaphosa, before I give you an opportunity, I would like to organise this debate in terms of the broader themes we are dealing with, so I don't know

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whether Ms Kgositsile would like to come in on this, or hold for a minute and Mr Mahlangu whether you, with the points that you have in mind, which is relevant to the present discussion.

Mr Mahlangu Ja, mine is relevant to the public participation.

Chairperson Okay, I am with you. Mr Schutte?

Mr Schutte Not now.

Chairperson Not now, okay. Let us hear Mr Mahlangu and then Mr Ramaphosa.

Mr Mahlangu Okay. Thank you, Chair. Mine is not a very difficult one. 10

The concern has been saying that in regard to public participation, members of the Theme Committees will have to play an active role in attending seminars* and workshops and public hearings, throughout the country where ever possible and that we are responsible for forming a suitable delegation to do that. Now my question is, are we then saying that the Theme Committees themselves will then come out to the venues of such workshops, and that they, or that the secretariat will co-ordinate them and we will get that from the secretariat. That is impossible, to arrange one for this weekend as I can see to our problem. 20

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Chairperson Thank you very much. Mr Ramaphosa is now going to ..

Mr Ramaphosa I am not responding to the question, I actually just wanted to pull out the important question which Mr Leon has raised. I think it is, Mr Ebrahim has responded to it but I think there is another phase that we haven't highlighted and I am rather grateful that Mr Leon has raised it, even on a Monday morning, there is a flush of brilliance from him once again. The facts of the matter is we are inviting the public to participate even before we have anything in writing, just like what we have been putting across on the TBVC, that is nothing, on this screen, it is your opportunity to make an input and thereafter the Theme Committees will deal with whatever is submitted both from individuals, civil society structures and political parties. Mr Ebrahim's response in terms of publishing drafts relates in the end to the draft that we will publish after August, that is the full draft. We haven't taken into account the publications of the reports of the Theme Committees. Everything we do is going to be done in public and when the Theme Committees report and report within the framework that we have already agreed to, where there is no contention, that issues are general

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agreed and suggested approaches, that may well be an area, or the type of report that we may want to make public in one way or another, through the various mechanisms that we have already agreed to, the bulletin, the Constitutional talk or whatever way, to enable the public to do precisely what Mr Leon is saying, to comment on whatever report has now been issued, even before the draft finally comes forward from the Constitutional Assembly around August or so. So that could well give the public another bind at making comment so that if an issues is being handled in a way where there is massive public protest and unhappiness, the public should be given the opportunity of ventilating their views and frustrations and unhappiness, even before we get to the draft. In my view that could actually even legitimise the work that we are doing a lot more, because it enables the public to interact in a much more effective way, rather than just to be provided with a draft Constitution, in August or later, which people may not even be able to comprehend fully, and yet if we give them binds at whatever smaller issues that we are dealing with on an ongoing basis, they are able to

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respond much more effectively before a final draft is prepared. And I would like to propose that this should be taken forward and have more proposals made say by Monday, To the Constitutional Committee because it is an important aspect and we have to thank Mr Leon for his submission.

Chairperson

Thank you, Mr Ramaphosa, Mr Leon. I am sure we will process it and discuss the matter further as a proposal at management committee level. We have not given a response to Mr Mahlangu, thank you.

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Mr Ebrahim

Chairperson, this is probably the most important point that I have been trying to make, which is that unless we know from a Theme Committee what its work programme is like, and what are the issues, we will not be able to organise these public hearings, do the necessary administrative and secretarial basic issues, such as inviting the relevant role players, organising the venues, organising the basic logistics and simple things like transport, advertising, public media, the relationship with the various communities and role players. So the dates, there will be very little flexibility I believe in reality with regard to the dates. We only really

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have the weekends and you know it is one of very few weekends that we really have to organise these activities, but the venues and all of those considerations will be effected by the administration, obviously with comment and input where necessary, from Theme Committees, but that is really the responsibility of our Community Liaison Desk which will attend to those facilities and organisation of that programme.

Chairperson

May I just make a suggestion, maybe that the Theme Committees consider that aspect in their deliberations, but as soon as possible we have an in depth discussion at management levels about exactly how we intend to go about it. Ms Kgositsile?

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Ms Kgositsile

Thank you Chairperson. Firstly I would like to express the gratitude of everyone that speaks to the Authoritative Director for assuring us that we get enough secretarial back up, but to indicate that if we, if it seems that we don't trust, I think because we would like to make sure that we do our work well, and to indicate that even right now, our members of the secretariat are not present precisely because they are away, because they are preparing well among other

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things for a Sub-Theme group workshop, and this is a matter of concern to us because we have formed Sub-Theme Groups and therefore we really cannot be you know, adequately serviced by only two members of the secretariat, we really want to stress this fact that we need much more consideration. Because, for instance I was looking for members of the secretariat to consult with them on a specific matter. Secondly I was approached this morning by the chairperson of the Sub-Theme Group, on financial institutions and public enterprise, the results of the meeting of the 2nd December of the Constitutional Committee, is that we have decided on prioritising certain matters and putting them in Block 1, and apparently this does not coincide with what the sub-theme group itself had prioritised, and had gone ahead to get in touch with over 100 organisations to make submissions on other matters other than the financial and fiscal submission and the others matters that are now in Block 1. Now I myself could not attend the meeting of the 2nd of December and recalls Sub-Theme Groups themselves are not represented in the CC-meetings and this has created a dilemma now as to

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how do they go forward because the responses that they were expecting and the programme that they expect themselves in terms of hearings, was based on what they had prioritised as opposed to what was adopted by the meeting of the Constitutional Committee, and perhaps we need to assist in terms of how to go forward, because they were asking whether now they should deal with the matters that have been since put on Block 1, or do things as they had planned. Thank you chairperson.

Chairperson

Thank you. Mr Ebrahim, will you respond please.

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Mr Ebrahim

Thank you. A very important question, Theme Committee 6, no longer relies only on two people, we have employed more people, there are three more people who will assist, each of your Sub-Theme Committees that need secretarial services, will be more than adequately staffed, and if there is a need to increase on that, we would no doubt increase the staff compliment that you require. With regard to the changes, the work programme is as, again to stress was a broad outline. My understanding was that the Constitutional Committee approved in its amended form the first block, but I don't believe, and I can't speak out of turn

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and I don't speak for the Constitutional Committee, I don't believe the Constitutional Committee is going to insist that the Theme Committee deals with one issue and not the other issue, only because it has so decided. I would imagine that the Theme Committee having decided the logical sequence of issues to be discussed, their views would prevail, and that nothing would be really forced down on the Theme Committee.

Chairperson

Thank you. Mr Schutte?

Mr Schutte

Chairman, just a very practical problem. Just looking at the schedule, it appears to be of a very stop, start nature, in other words the Theme Committee can only more or less, or it is suggested that the Theme Committee can only more or less sit one session a day, and only three Theme Committee can sit together. Now it would appear to me that there are only three venues allocated for this purpose. Is that the case? I mean, are we limited to three venues? Because if that is the case then we are heading for big problems I think.

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Mr Ebrahim

Chairperson, an important point. We are not limited to three venues, I think the venues have now increased. In

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fact when we, our recent relocation of the administration to Regis House, we are now installing an added venue. The problem with our existing venues is that aside from recording facilities, they won't all allow for public participation or public compliment as well as a press compliment, let alone allowing for 30 members plus secretarial facilities. There have been other considerations as well in grouping Theme Committees in groups of 3 and not having them all run together, and the smaller parties have complained that having it all run simultaneously, the smaller parties would be adversely affected with their ability to represent themselves in each of the structures, and...

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End of Tape 1

Theme Committee One Meeting 23 January 1995 (2):

Mr Ebrahim ...thirdly just generally, already where they have already looked at very oddly, and people are already beginning to complain and see me as a person who is over working and slave driving, the members of parliament and people are complaining that they simply have just too much on their plate. So to give some sort of leverage, to give people some time to do other work, to also give that break and also to make allowances for the smaller parties that do not have enough members, and also considering the venues. If members of Theme Committees are prepared to meet 6 simultaneously at one go, it would certainly be very helpful to the administration in that we would see a much more easier flow, but that would be practically impossible.

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Chairperson Thank you very much. Ladies and gentleman, does that conclude the contributions from the meeting side? I see two hands on my left. Thank you. I saw Mr Smith there, please.

Mr Smith Mr Chair, are you talking about concluding the meeting or just that one section of it?

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Chairperson I think it is open, anything that you would like to put, and I see your hand also Mr Ndlovo.

Mr Smith Okay, I refer to point 7 which is dealing with the reports. The second point is that these reports will include details of contentious and non-contentious issues and suggested approaches, and I think for clarity first of all, what suggested approaches really means, and then just as a point of information, is there any intention of devising some sort of standardised format for these reports in terms of contentious and non-contentious. We have been received something like 70 submissions, and how you physically process a report to the CC to make sense of them, have you given thought to that?

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Mr Ebrahim Mr Chairperson, an important point. This is a matter that was raised by the Constitutional Committee, there is no specific format. If we impose a format upon the different Theme Committees who are dealing with such varied matters, as concepts such as democracy to the Bill of Rights and Financial and Fiscal Commission and so on, there cannot be a strict format that can be imposed on reports. The three, the compartmentalisation of the

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reporting to those three categories has been decided upon by the Constitutional Committee so as to ensure that all the various sensitivities are taken into consideration.

Chairperson

Thank you. Mr Ndlovo?

Mr Smith

Sorry, Chair. "Suggested approaches" what does it mean?

Mr Ebrahim

Chairperson, the question of "suggested approaches" if a report has been developed and it is felt that a further public hearing or a further conference could help to facilitate a particular issue in the report, one must remember that the schedule is such that we allow, making allowances for Constitutional Committees and Constitutional Assemblies to sit at regular intervals. For them to sit at regular intervals they need work to process. Now we can't always expect the Theme Committees to have reached finality on a particular aspect, because one Theme Committee has not reached finality on an aspect does not mean that we should delay the entire Constitutional Assembly, because one Theme Committee has not. Now the ability is there, the opportunity is there for a Theme Committee to file a report together with suggested approaches so as to give guidance to the Constitutional Committee and the Constitutional

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Assembly to indicate perhaps that several of the role players have not been consulted on a matter, or further discussions on a matter could help, to bring about greater consensus and so on. Those are the type of possible approaches which would be very helpful to the Constitutional Committee in considering the impact and the import of a particular report issues by a Theme Committee.

Mr Ramaphosa

The suggested approach could also well deal with the substantive issues that the Theme Committee is dealing with. In addition to what Mr Ebrahim is saying, which he is stressing in terms of the work of the Theme Committee, the procedural point, they may have reached a point where there is just no consensus on a particular issue, and they may want to suggest that certain other things, actions or whatever be opted for. They may also in their report, say there may well be two ways which to resolve the matter, and propose that this is one suggested approach on a particular substantive matter and another one is that, and another one is that, which would enable the Constitutional Committee to then consider the various approaches on the substantive issues, in terms of how they can be handled,

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and the debate is then taken forward in the Constitutional Assembly on whether there should be a right to life, on whether there should be a right to life. But then again the Theme Committee may well suggest that we believe that there should be further hearings or whatever on this one. So it could well be on substantive issues as well as on how to handle it in a procedure.

Chairperson

Mr Ndlovo.

Mr Ndlovu

Thank you Mr Chair. I was looking at the programme for the blocks, because I was going to propose that we have this forum every now and then per block, but now I was looking at the 1st of February on Wednesday, it seems as if most of the time has been allocated to the Theme Committees, because I was going to propose that after every block, if we have this forum to evaluate ourselves and to see how far have we gone, so that we will pick up some difficulties there and then we can see that we co-ordinate it and push it forward.

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Chairperson

I think that is a very wise suggestion, and if we do not make it, turn it into a fixed proposal as for a specific day, we will take it on board and we will try and work on it, to make it a

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meaningful event as we go along. But thank you very much for that suggestion. Ladies and gentlemen, if there is nothing further to consider, or any further questions raised, I just then have the responsibility to wish you all well for the work, and thank you very much.

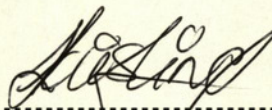
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**CONSTITUTIONAL ASSEMBLY
THEME COMMITTEE 1 MEETING
23 JANUARY 1995**


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CONSTITUTIONAL ASSEMBLY

**Theme Committee 1 Meeting
25 January 1995**

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Theme Committee 1 Meeting 25 January 1995 (1):

Chairperson Call meeting to order. Thank you for responding. Honourable members you're welcome in the new year to the mammoth task of producing the new constitution for the country. You will remember that the major aspect .. may the people who are still talking give us change to start the meeting. Thank you very much. You'll remember that one of the major aspects for conducting the election it was to have a body which must write the constitution. We are now faced with our task. In 1995 it has been said several times that it is the year of the constitution. It is important for us to produce a constitution as the people out there are waiting for the constitution to come out very quickly and we are expected to perform our duties as entrusted on us. Each and everyone has the responsibility to make sure that within the scheduled time we do produce the constitution. In short you're welcome. We hope everybody has rested and is very energetic to attack upright the challenges that are ahead. Item two: Minutes. I assume that everybody has read the minutes because they have been circulated. They are contained in AO4. Any proposal for adoption the minutes, alright. Any seconder ... any seconder for adoption the minutes? Thank you very much. So the minutes ... Any decent? So the minutes are seconded as correct. Matters arising.

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Any matter of importance that members would like to bring to attention of the meeting arising from the minutes. Thank you. In the absence of any matter arising then let's go to the next item. The next item is item four on the agenda. On item four I must report that we have had the meeting of the call group which has made certain proposals regarding the process. I would ask the secretary to quickly go through the major proposals of the call group as contained in the minutes. Madam secretary.

Secretary

Basically the call group met yesterday and it looks if I mean brief the chairperson report back of the chairpersons meeting which took place on the twenty third of January. We discussed the work plan and the Theme Committee work there as well. We look at Technical Committees, the Community Liaison Committee. I think there is much more detail discussion around the Community Liaison Programme which we were asked to actually put forward in a proposal towards the Theme Committee members today from the call group members which stated that in the absence of not having a Community Liaison or Public Participation Programme funding the administration. The call group looked at this and decided on the following: Theme Committee One would look at embarking on a public participation program for the eleventh of twelfth of February this year inviting legal experts and academics

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to make submissions to the Theme Committee whether in regard to all ten blocks rather just to Theme Committee One. We also discussed the feasibility of having a feasibility of having ... sorry I've got it now, the feasibility of getting in contact with the religious events community based organizations to make submissions with regard to the separations between the state and church. Discussion was also around the Economic Conference which we would like to have it's vow to discuss the economic constitution. Our targeting, basically organizations I should say such as the Chamber of Commerce and other organizations as well. They press around Community Liaison Programme. We also discussed the submissions and how we go about dealing with submissions the process of dealing with submissions. I think that members of the call group will be in a much better position to put forward those proposals to committee.

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Chairperson

Thank you very much. Any comment that there are on the report from the call group although the most of the matters are still coming on the agenda as item five, six and seven but should we allow... let me allow any general comment on their report.

Unknown

Mr Chairman I see on the Twelfth of February is on a Sunday and as far as I'm personally concerned I'm not prepared to take part in any negotiations on Sundays. I want you to take notice of it

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please.

Chairperson Any other input on the report of the call group? Thank you for the comment.

Unknown Mr Chairman I may state it was mentioned in the call group by the Freedom Front as well so we put the same case ... I think Mr Rangers made it now.

Chairperson Are those the inputs from... this was also mentioned by the parties concerned in the call group but it's for the Theme Committee to make an input if any in that intent we will go to the next item which deals with the Work Programme and setlock meetings. But let me wait and see whether there is still comments on the report of the call group. Are there any? Mr Bisshop.

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Unknown Our position is going to be the same that Sundays we are up for discussion.

Chairperson Is that all input we have that. Thank you. Then we go to item three. Possibly the major aspect. Work plan and setlock meetings. The matter is then open for discussion. We are having a work programme which has been set out I think in the documents before you on page thirteen... twelve and thirteen, sorry, from page eleven there are a work programme which has been set out on these grant... green document CGO1 you have your work programme on that and you also have the sedlock

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meetings set out in the pages... I think thirteen... I think up to page seventeen, nineteen, twenty to twenty one. That is the matter now on the table. You will remember we need... we are having certain deadlines in each case. Block one, we have to put members in the picture. Block One is been agreed by Constitutional Committee on the 2nd of December as the work programme and even the rest of the programme has also been tentatively or in principal be accept it as the work plan for the Theme Committees although the other Theme Committees had a problem with arrangements with or items but I didn't get any complaints at that meeting from Theme Committee One. So the work plan programme is seemingly although flexible is tentatively the programme we are to follow. Now the first thing for us is to decide whether we feel the work programme as it appears is in order and the dates are in order as they appear or are there any other inputs members would like to make. The matter is open for discussion.

Chairperson perhaps you can just inform the meeting that we have already decided that the final deadlines is some dei of leniency we have voted into that. So for instance where the final deadline for block one was a ... is stated on the document the twenty third that's just a day, two days ago. We have extended that already by seven days and the same will apply to block two and the other

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Unknown

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blocks.

Chairperson Thank you that was the feeling of the call group which of course needs to be endorsed. Their report has been read. The thing that the call group suggested that the deadline for submissions for the first block be extended today until next week Monday so that parties can have a word with it off and such. But that was the view of the call group which still needs ratification. Any other input?

Unknown The ANC does not have a problem with that the deadline been shifted to the 30th of January.

Chairperson Thank you. Any other input? Thank you. So if I understand the meeting well regarding the shifting of the deadline for the submissions of block one it's agreed to be postponed to the 30th of January 1995. Another aspect emphasized at the Constitutional Committee Meeting and even the Chairpersons Meeting is that while the Theme Committee is the captain of the ship, we must make sure that we try and follow the deadlines in other words not disturb the programme in a substantial way as far as we can. So while we make such adjustment must make sure that at least we look at the major deadlines that is the thirtieth of June which will be the final date for submission of all inputs from the various Theme Committees and other deadlines. The other matter which remains then on this work programme is the question which must be taken

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into consideration is the fact that we are also having the next submissions required in block two while we have shifted this block two is creating problems because now ... I think on the first or second of February. You need to have submitted submissions in block two so the parties perhaps will be well advised to consider that and take it into consideration. Prof Ripinga.

Prof Ripinga

Chairperson I'm not arguing with what you're saying and also the fact that the programme is as said that but within this comprehensive picture I wanted to make a proposal. I'm suggesting that out of this comprehensive picture we extract our own work programme. That is number one. Secondly with regard to the schedule of meetings that again we extract from this work programme which indicates the theme concern, or the item or the issue to be discussed, the deadline for drafting, the deadline for submissions, the public participation programmes so that we have a global picture. As it is here. You know one has to check here and there and there but it if Theme One we also have our own out of this whole thing. I think that will also be quite helpful if the call group would took that task and try to work something out of this.

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Chairperson

Thank you. Any other input on this aspect? Work programme and a setlock meetings. Right perhaps Professor Repinga should go further and indicate which because now if one looks at the work

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programme it indicates each, what each Theme Committee must do at each point in time. Now perhaps if you say our own setlock meetings and programme, perhaps you can elaborate on that just to give us a more clear picture what is entrusted.

Prof Ripinga

To clarify chairperson I think it is my last day I'm querying this document here but it will be good if I have a work programme of my own programme which I can put on my notice board whatever which indicates themes for work programme for Theme One it ... it is there and then a schedule of meetings indicating deadlines for drafting, deadlines for submission for that a particular item work programmes for public participation so that I have it because this thing I'm not going to be carrying it all now and then. That's what I'm saying that out of this document let us extract something that is going to help us and saying and not being constrained by this document here.

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Chairperson

Thank you Professor Repinga. Any problem with that? Anybody with any problem with that? So the call group will support of that administration extract what is for Theme One out of this and then put it ... Thank you. May we have one meeting at a time so that we can ... is the consultation complete now? Thank you. Right. Are we still having any problem with the scheduling of meetings and work programmes itself? Are there still any other comment on

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that? Thank you. With the absence of any comment then let's go to the next item. That is technical, perhaps ... Ok, Technical Committees. The call group yesterday received a report from the secretariat regarding Technical Committees on the report. I will read it back from the minutes of the call group. It's saying that the secretariat reported that the Technical Committees are still in the process of being set up. So the process is not yet complete of having Technical Committees in place. However the process is on. Any comment on that? Well any query on that and if anybody wants to make an input on that or any question on that let it be raised.

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Unknown

Mr chairperson...

Chairperson

Clarification is given.

Unknown

Mr chairperson if I mine is just a question. What does the process of setting up Technical Committees entail? If we could have some clarification on that.

Unknown

Mr chairperson. I'm a member of the Sub Committee responsible for negotiating the Technical Committees. We are ... I came from a meeting that started at seven thirty this morning and I left the people that are still in consultation that we hope to be able to submit our proposals to the Constitutional Committee meeting and I think which scheduled to take place on Monday.

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Chairperson Does it answer your query?

Unknown Well in a half baked fashion but because I wanted to know for instance where the difficulties lie just for information sake.

Unknown Well one of the problems was that we firstly request recess the Committee could not be convened, and secondly when we met two days ago quite a few of the parties requested time to make further submissions and we have now this morning received the new lists of the names and chairperson we could start with negotiations. We have made some ...

Chairperson Any other input? Perhaps here we need to reflect a bit when 10
looking at the Technical Committees mixed with the work
programme we're having. If you look at the programme, the work
programme, the setlock meetings. On pages thirteen to
twenty-one you have Saturdays and Sundays been reflected as
the days on which public events or public participation are to be
held. I mix that with the Technical Committee in the sense that we
need to reflect on that. Why now say as opening the matter for
discussion I thought members will come up and say when are we
to hold such public participation and which place is to suggest to
the administration because the administration said it will make 20
logistics for us but we must say under which item do you want
public participation and what is the nature of public participation.

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Do you want to have rallies, do you want to have workshops, do you want only to have academics or do you want public in general coming in but it seems members are leaving it as it is. We, we don't just have a clear, you know, what to tell the administration what we did do regarding public participation because what we expect for reason we expected from this weekend to have started but that has been postponed because arrangement has not been made but then the next weekend we should in other words in next week we must be able to participate in that. We are expected to make delegations to go and conduct such public participation from each Theme Committee in the various areas. Now the format is to what, what format should the public participation take. We should indicate as a Theme Committee to the administration so that they make the necessary arrangements. Now could members help us in that please. Just come up with ideas. Mr Moorcroft.

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Mr Moorcroft

Chairperson yes this matter was also discussed at a call group at some length yesterday. The feeling that came out of the discussion was that we should suggest to the Theme Committee for their approval the following. That if we look at blocks one to ten on page eleven we will be able to identify there certain shall we say constituencies for wanting a better word which do have their own representation for example the legal community, for example

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the academic community, for example the religious church communities. These communities, constituencies, call them what you will would be able through their leaders to give valuable input to this Theme Committee. The feeling was that perhaps invitations should be extended to the organizations involved religious, legal, academic to meet with this Theme Committee in an open session in order to make submissions to us concerning items on the schedule one to ten here on the blocks one to ten which are of specific interest to them. Specific interest but not necessarily the only to restrict them to only one or... or more blocks that... there should be for example the academic community, political scientists etcetera might wish to comment on block two, the question of a single southern state supremacy of the constitution. But in the same time we shouldn't restrict them to that, we should allow them to comment freely on any other of the blocks where they might have an input to make. Similarly for the league of fraternity for the church community. With regard to the public at large if I may describe to that as such, it was felt that the public at large is through the media, through the advertisements which have been appearing in the press, on radio and television are being encouraged to make submissions to us. The public at large has responded. We have already a number of submissions which

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have come in. It was felt that perhaps the best way of handling these submissions would be for us to sift through them and perhaps find submissions of particular merits or interest where the person or persons involved might be invited to come and expand further on the ideas to us again in open session as we would be doing with the corporate membership of the other institutions. By so doing we would not be restricting the community participation in any way. Individuals would be free to make submissions. Individuals would be free where there was merit for these individuals to come personally to speak with us and at the same time a leadership of community will also have access to this community. Those were the sort of broad general guidelines which we discussed and which we thought have some merit to lay before this committee. Thank you chairperson.

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Chairperson

Thank you Mr Moorcroft. Ladies and gentlemen the matter is open for discussion. This is a serious and an important matter. We should try and address it properly. Well handled it might produce good results, but if not well planned and well handled it may cause tensions within the communities. It is important that we come out. Here are certain suggestions that in the participations concerned you target certain groupings. Is that the only feeling ... the only view or perhaps do we have any other view which may help us.

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Mr Kekana.

Mr Kekana

Thank you chair. I think it is important to start somewhere we ... we discuss this issue. I think the call group is a ... has started a very important debate. I want to congratulate them on that particular issue but I don't think it has go deep enough into discussions and so on. One feels here that people are talking about out from the call group one the more profit side, reflecting what the call group said. They're talking about public participation but the emphasis seems to be more on a organized formation like academics, religious communities and so on but I think it will be important that we ... we start by saying that this constitution is the constitution of the people. It is not the constitution of the elite unless such, there are other formations which might not fall into this blocks as ... as outlined here for instance it will be very difficult to define exactly where a civic organization falls you know as far as this ten blocks are concerned. Those kind of organizations do have an interest in all detail and therefor to reduce participation to ... the ... this different blocks will actually be very various and then I think we have to find another way of reaching out to the public at large you know when talking about public participation or committee participations we talking about the organized side of the community and even if they are unorganized how do we ensure as

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... the CA has a Theme Committees that ... people are generate a interest in ... in the writing of the constitution and therefore I think we'll then be together with our people writing a constitution a constitution that will identify with, not a constitution that is written by an elite group there you know the asmation. So therefor I think that we should agree in principal as the Theme Committee. The most important component in writing this constitution will be the people there and we need to move to the people and we need to ensure that we generate some interest even if some of us might ... might be defying the public in to that narrow fashion. I think we need to agree that let's open up and be sure that we reach out to people and they participate. I know there will be some arguments about the budget constraints and so on but I think when we talk of maximum participation we need to stretch our resources to the limit and ensure that we reach out to all our people and not only the organized who are going to be able to afford train tickets and even plane tickets to Cape Town. We need to go out. We need to be in ... handle this mere by a ... sort of a forum. Thank you.

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Chairperson Thank you. Doctor Nzimande.

Dr Nzimande Ya, thank you comrade chair. I think that I want to follow on from what comrade Matthews said. I don't think we should discuss this thing as if we're starting from scratch and I think that the call group

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should help us for instance document AO4 page 5. We had discussed as this Theme Committee, brain stormed and listed down a list of structures and people and organizations that we have go to consulted. I think we need to go back to that and I feel that the call group will help us if it could then take from here and begin to even specify or come up with names and I think that I would even put it a little bit stronger than my comrade met there and said that most of this formations will have an interest in all of this civics, they have got a fundamental interest in every point you know which is there. So it's a very important issue that and maybe also the call group needs to also assists us by then maybe by concentrating on the process on how we embark on public participation and that process must be a wide variety of activities and also bearing in mind the kind of activities that are going to reach the majority of our people. I am sure as political formations here put together we've got a wide variety of ways that we have used at various times to try and get across. The other thing I think maybe the call group needs to help us with as a process issue is how then will we process those submissions because it's ... it's judging from for instance my experience in the Educations Select Committee the amount of submissions that we got. We got faced with the problem of actually how does one process that. I think is

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it an issue that we need to look into. I'm raising that in particular so that they don't play lip service to wider consultation. We call for public participation, we call for submission just to satisfy the people that they have consulted and then entirely we do not have a process of seriously analysing and considering that and those things get presented here so that we are able to so that our own discussion are enrich. So in short comrade Chair what I'm saying is the call group needs to go back and come with a much more clearer and worked out proposal which then we can we can debate here. Thank you.

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Chairperson

Thank you very much Doctor Nzimande. Perhaps the question of submission ... the processing of submissions is still the next item. The call group have has a decision to make but regarding the question of participation there are a little bit ... perhaps different views as to how meant by public participation. What the administration has is indicated to the chairpersons meeting is that we must just indicate what our needs are then they will make the logistics and make arrangements. Then we must come up what ... by public participation. What is it that you want? In what format do we have in mind as a Theme ?Committee? Now they need only those guiding principles then they will make all the necessary arrangements. They are there as supporting staff. We must just

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indicate. We needed to take this home and we needed it in this manner in that way. So that one is actually not that difficult. We need only guiding principles to give to the administration. They are ready. They have a liaison, what is that section, Community Liaison Department which is dealing with that. So they only need principles. What are the needs of the people? That is what they expected to ... to come up just with principles now and then give to them those principles. And then another aspect they expecting from us, after giving such guidelines we must be able to form delegations which will attend those public participations. They expect us to come up with that but the major thing now is the principles. What format do you want? For instance it is important as it's been said that we have various communities and the civics which will like to comment on almost all this but how we structure the whole thing. Do we have rallies to be attended by certain delegations from the Theme Committee? Do we have workshops? What format do we got? We only have a view groups in a closed building where your doing it? In other words the Liaison Committee expects us to come with principles. That's what is expected that we must come. Now going about this meeting is impossible. Those principles must be there and we must look at not only at block one, there all the ten blocks so they can make

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arrangements in advance, because if you tell them that this week you want to go there why didn't you tell them before they indicated that, it might be a problem. So we must be able if it is possible today for us to come up with that. It will be a bonus for the Liaison Section. So what I'm trying to extract from the meeting that we do have such principles. What do we want? What do we mean? What do we understand by public participation and how should they be organized? Any input? Any other input?

Unknown

Chairperson. Chairperson I don't think anybody can have any objections to the idea of public participation because that's been agreed to. As far as I see the picture the whole thing is how we're going to do it and I believe that the public outside regardless where they live by now and with the effort from Constitutional Committee to get people to know more about the Constitution made in South Africa. I believe the public is going to become very, very much aware of what we are going to do within the next within the next few months. So I think it is up to the public and to the parties structures to get to people to understand that we are busy with this and then to make representations to us whether it be in writing or verbal or whether they'd like to see us personally. I think that will depend entirely on the action of the public outside but my suggestion would be that the moment you have written

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submissions or even submissions by fax and so forth that the people would like to see us then we should go out and listen to their evidence and so forth and listen to their suggestions. But I think we should if we want to do this properly we obviously will have to start with it as soon as possible because otherwise you are going to find yourself in the situation where there will be tens of these organizations, Governmental, non-Governmental, Voluntary Organizations, Civics who ever they are. We'll find it impossible in the time frame we have available to us to see all these people. So I would my suggestion would be that we that we develop this campaign of getting the people outside to know that we are busy with this and to make representations and then we draw up a programme of how we're going to see the work. Is it going to be the whole Theme Committee of just groups of people listening to them and to put questions to the people. In other words the way that one normally does with a Commission of Enquiry or with a Select Committee or with a Standing Committee if you want to have evidence. I think if you go out and attend rallies and so forth. It all will be very nice to go to that but how far will we get? How far will we get in order to get the submissions of the of the people and this is what we want. You want them on paper and you want people to give verbal evidence to us and to

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explain why they want certain changes and will they approve of what we are and what we aren't doing.

Chairperson

Thank you. (inaudible)...

Unknown

After listening to the speaker to the honourable member. I'm getting my manner that it's quite important that we have to stick to fact we have to go out on our own and sometime it doesn't have to be parties but we have to go all of us. The link that we want to build here, it is to empower our own people because these what was suppose to come of this, that's a broad principle. That's to push all of us here. How far do South Africans understand I mean the constitution itself and how much do they participate. It doesn't have to be urban based those that have fax and I mean post office, that can make it easier for them to write or to fax us here. But the people in the urban and in the rural areas, it is quite important for them to participate in this process because the constitution is also meant for them. So I'm saying that the question of empowering of them are quite crucial at this processes so I will really move that even if it go to the levels of rallies, I suppose we need to be quite sensitive here that our people the rate of illiteracy in our Country is quite high you see. It is not going to be easy. We all agree that it is not going to be a easy process where it's ... you only allow academics to write to us

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and talk to us but the man who speaks Venda must be able to have a input in the constitution through his own language and to how he understand the constitution. So that he is not left out tomorrow and where we end up saying this is your constitution and if your alienated by the process that we have put into place. And that is my concern. So I'm really saying that maybe the people's forum form part of that process. Of how far it goes. It's something that we all have to agree here that how far are we prepared to say maybe on block one for how many peoples forum are we prepared for. If we are not prepared for ten blocks, we all agree we are not prepared for ten but we will be able to do five or six. I mean where are those people's forum going to be organized in Gugulethu. Is it be organized in the Northern Transvaal in the rural area, it's to empower those people to understand that this constitution is meant for them. Some of theme don't have TV's, they don't have radio's. They have got small radio's but those radio's don't explain anything. What does it mean for them to be part of it the constitution making process?

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Chairperson

Thank you. Me Sutton.

Ms Sutton

Mr Chairman I'm a little concerned. I believe that we are at this stage so far behind that we don't even have parties submissions. We don't even know what parties stances are on this issues yet.

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How can we now start defining how we go about public participation. In broad principles, yes, but I think with all due respect we have to get our own act in order before we can really decide how far we take public participation.

Chairperson

Ja, I think as it have been advertised by the chairperson or the officials of the CA . The constitution has not have been written in other words submissions are requested from parties public and everybody and physical participation of the public also one of the instruments to be used. So we I don't think the question that the submissions are not there, they are not preclude arrangement or public participation. I don't know. It is open for the meeting to decide on that. Any other input?

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Unknown

Mr Chairman. Mr Chairman I don't think there's a question of being opposed to consulting the people outside. I think the question is when do we want to consult with the people. Do we want to go to the people without anything in our hands that we can put before them for discussion or do we want to go to the people and ask them what we must put on report for them to discuss again. And I think we have an obligation as elected representatives of the people to at least get some information from certain or specific or how many interested groups as possible and with that in order then go with something to the people and say

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that is what the interested groups putting up and putting before us for writing into this constitution. What is your comment on it but really sir, I think we must be very frank about it and perhaps overall the communities. If we want the people outside who know nothing about constitutions and things like that to write a constitution for South Africa, Sir. We will sit here for the next ten years and we get absolute mess at the end of the day. We have a obligation to give some guidance in this whole process. So I think it is very important that we do at the process at honour and that how we are going to process this whole effort. I think it is very immature to at this stage to say we are going out to the people to consult the people about what.

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Chairperson

Thank you. Any other input?

Unknown

Ja, firstly I would like to disagree with the honourable member who has just spoken. My understanding of what he's saying is that Constitutional lawyers should write the constitution because they are the people who understand the constitution. But what I'm saying is that people know the type of governance they want to have. They know at what level government should interact with them more or less. They have been governed before. They have known the disadvantages of not been represented in government. They know the advantages of representation all be it not in the

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former government sense but in different organizations particularly during this period of struggle. They have been governed because they had acted in one way but it was not by the state. Some people have been exposed to constitutions one way or the other. Correctly it may not be the western type of constitution but their basic law I believe is what the constitution is and the basic law is what causes harmony generally and that people do understand. And therefor to say that people do not know anything about constitution is being a little too academic for reality in our country. And what I'm proposing is that we've got to classify the input, the submissions we get. Classify it into organized formation of formation of society like religious bodies. I intend not to like the word churches which tends to exclude say religions like Islam, Hindus and so forth. Perhaps the titles should have read religion and the state but I don't know what are the merits of eventually reaching church and state. And let us then classify those organized formations for the sake of management and then amongst ourselves there should be people attending then to churches, other people to labour formations, other people to business formations, legal and so forth depending on our previous exposure and then the unorganized...

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END OF TAPE

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**CONSTITUTIONAL ASSEMBLY
THEME COMMITTEE 1 MEETING
25 JANUARY 1995**

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Theme Committee 1 Meeting

25 JANUARY 1995

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AO4. Any proposal for adoption the minutes, alright. Any seconder - any seconder for adoption the minutes? Thank you very much. So the minutes - Any decent? So the minutes are seconded as correct.

Matters arising. Any matter of importance that members would like to bring to attention of the meeting arising from the minutes. Thank you. In the absence of any matter arising then let's go to the next item. The next item is item four on the agenda. On item four I must report that we have had the meeting of the core group which has made certain proposals regarding the process. I would ask the secretary to quickly go through the major proposals of the core group as contained in the minutes. Madam secretary.

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MS ROUTLEDGE:

Basically the core group met yesterday and it looks if I mean brief the chairperson report back of the chairpersons meeting which took place on the twenty third of January. We discussed the work plan and the Theme Committee work there as well.

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We look at Technical Committees, the Community Liaison

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Committee. I think there is much more detail discussion around the Community Liaison Programme which we were asked to actually put forward in a proposal towards the Theme Committee members today from the core group members which stated that in the absence of not having a Community Liaison or Public Participation Programme funding the administration.

The core group looked at this and decided on the following: Theme Committee One would look at embarking on a public participation program for the eleventh of twelfth of February this year inviting legal experts and academics to make submissions to the Theme Committee whether in regard to all ten blocks rather just to Theme Committee One. 10

We also discussed the feasibility of having a - feasibility of having - sorry I've got it now, the feasibility of getting in contact with the religious events community based organizations to make submissions with regard to the separations between the state and church. Discussion was also around the Economic Conference which we would like 20

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to have it's vow to discuss the economic constitution. Our targeting, basically organizations I should say such as the Chamber of Commerce and other organizations as well. They press around Community Liaison Programme.

We also discussed the submissions and how we go about dealing with submissions the process of dealing with submissions. I think that members of the core group will be in a much better position to put forward those proposals to committee.

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CHAIRPERSON:

Thank you very much. Any comment that there are on the report from the core group although the most of the matters are still coming on the agenda as item five, six and seven but should we allow - let me allow any general comment on their report.

UNKNOWN:

Mr Chairman I see on the Twelfth of February is on a Sunday and as far as I'm personally concerned I'm not prepared to take part in any negotiations on Sundays. I want you to take notice of it please.

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CHAIRPERSON: Any other input on the report of the core group? Thank you for the comment.

UNKNOWN: Mr Chairman I may state it was mentioned in the core group by the Freedom Front as well so we put the same case - I think Mr Rangers made it now.

CHAIRPERSON: Are those the inputs from - this was also mentioned by the parties concerned in the core group but it's for the Theme Committee to make an input if any in that intent we will go to the next item which deals with the Work Programme and set lock meetings. But let me wait and see whether there is still comments on the report of the core group. Are there any? Mr Bishop. 10

UNKNOWN: Our position is going to be the same that Sundays we are up for discussion.

CHAIRPERSON: Is that all input we have that. Thank you. Then we go to item three. Possibly the major aspect. Work plan and set lock meetings. The matter is then open for discussion. We are having a work programme which has been set out I think in the documents before you on page thirteen - twelve 20

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and thirteen, sorry, from page eleven there are a work programme which has been set out on these grant - green document CGO1 you have your work programme on that and you also have the set lock meetings set out in the pages ...

I think thirteen - I think up to page seventeen, nineteen, twenty to twenty one. That is the matter now on the table. You will remember we need - we are having certain deadlines in each case. Block one, we have to put 10 members in the picture. Block One is been agreed by Constitutional Committee on the 2nd of December as the work programme and even the rest of the programme has also been tentatively or in principal be accept it as the work plan for the Theme Committees although the other Theme Committees had a problem with arrangements with or items but I didn't get any complaints at that meeting from Theme Committee One.

So the work plan programme is seemingly although flexible 20 is tentatively the programme we are to follow. Now the first thing for us is to decide whether we feel the work

programme as it appears is in order and the dates are in order as they appear or are there any other inputs members would like to make. The matter is open for discussion.

UNKNOWN:

Chairperson perhaps you can just inform the meeting that we have already decided that the final deadlines is some dei of leniency we have voted into that. So for instance where the final deadline for block one was a - is stated on the document the twenty third that's just a day, two days ago. We have extended that already by seven days and the same will apply to block two and the other blocks.

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CHAIRPERSON:

Thank you that was the feeling of the core group which of course needs to be endorsed. Their report has been read. The thing that the core group suggested that the deadline for submissions for the first block be extended today until next week Monday so that parties can have a word with it off and such. But that was the view of the core group which still needs ratification. Any other input?

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UNKNOWN:

The ANC does not have a problem with that the deadline been shifted to the 30th of January.

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CHAIRPERSON:

Thank you. Any other input? Thank you. So if I understand the meeting well regarding the shifting of the deadline for the submissions of block one it's agreed to be postponed to the 30th of January 1995. Another aspect emphasized at the Constitutional Committee Meeting and even the Chairpersons Meeting is that while the Theme Committee is the captain of the ship, we must make sure that we try and follow the deadlines in other words not disturb the programme in a substantial way as far as we can.

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So while we make such adjustment must make sure that at least we look at the major deadlines that is the thirtieth of June which will be the final date for submission of all inputs from the various Theme Committees and other deadlines.

The other matter which remains then on this work programme is the question which must be taken into consideration is the fact that we are also having the next submissions required in block two while we have shifted this block two is creating problems because now - I think on the first or second of February. You need to have submitted submissions in block two so the parties perhaps will be well

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advised to consider that and take it into consideration. Prof Ripinga.

PROF RIPINGA:

Chairperson I'm not arguing with what you're saying and also the fact that the programme is as said that but within this comprehensive picture I wanted to make a proposal. I'm suggesting that out of this comprehensive picture we extract our own work programme. That is number one.

Secondly with regard to the schedule of meetings that again we extract from this work programme which indicates the theme concern, or the item or the issue to be discussed, the deadline for drafting, the deadline for submissions, the public participation programmes so that we have a global picture. As it is here. You know one has to check here and there and there but if Theme One we also have our own out of this whole thing. I think that will also be quite helpful if the core group would took that task and try to work something out of this.

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CHAIRPERSON:

Thank you. Any other input on this aspect? Work programme and a set lock meetings. Right perhaps

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Professor Ripinga should go further and indicate which because now if one looks at the work programme it indicates each, what each Theme Committee must do at each point in time. Now perhaps if you say our own set lock meetings and programme, perhaps you can elaborate on that just to give us a more clear picture what is entrusted.

PROF RIPINGA:

To clarify chairperson I think it is my last day I'm querying this document here but it will be good if I have a work programme of my own programme which I can put on my notice board whatever which indicates themes for work programme for Theme One it - it is there and then a schedule of meetings indicating deadlines for drafting, deadlines for submission for that a particular item work programmes for public participation so that I have it because this thing I'm not going to be carrying it all now and then. That's what I'm saying that out of this document let us extract something that is going to help us and saying and not being constrained by this document here.

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CHAIRPERSON:

Thank you Professor Ripinga. Any problem with that?

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Anybody with any problem with that? So the core group will support of that administration extract what is for Theme One out of this and then put it. Thank you. May we have one meeting at a time so that we can - is the consultation complete now? Thank you. Right. Are we still having any problem with the scheduling of meetings and work programmes itself? Are there still any other comment on that? Thank you. With the absence of any comment then let's go to the next item. That is technical, perhaps - Ok, Technical Committees.

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The core group yesterday received a report from the secretariat regarding Technical Committees on the report. I will read it back from the minutes of the core group. It's saying that the secretariat reported that the Technical Committees are still in the process of being set up. So the process is not yet complete of having Technical Committees in place. However the process is on. Any comment on that? Well any query on that and if anybody wants to make an input on that or any question on that let it be raised.

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UNKNOWN:

Mr chairperson ...

CHAIRPERSON: Clarification is given.

UNKNOWN: Mr Chairperson if I mine is just a question. What does the process of setting up Technical Committees entail? If we could have some clarification on that.

UNKNOWN: Mr Chairperson. I'm a member of the Sub Committee responsible for negotiating the Technical Committees. We are - I came from a meeting that started at seven thirty this morning and I left the people that are still in consultation that we hope to be able to submit our proposals to the Constitutional Committee meeting and I think which scheduled to take place on Monday. 10

CHAIRPERSON: Does it answer your query?

UNKNOWN: Well in a half baked fashion but because I wanted to know for instance where the difficulties lie just for information sake. 20

UNKNOWN: Well one of the problems was that we firstly request recess the Committee could not be convened, and secondly when

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we met two days ago quite a few of the parties requested time to make further submissions and we have now this morning received the new lists of the names and chairperson we could start with negotiations. We have made some ...

CHAIRPERSON:

Any other input? Perhaps here we need to reflect a bit when looking at the Technical Committees mixed with the work programme we're having. If you look at the programme, the work programme, the set lock meetings.

On pages thirteen to twenty-one you have Saturdays and Sundays been reflected as the days on which public events or public participation are to be held. I mix that with the Technical Committee in the sense that we need to reflect on that. 10

Why now say as opening the matter for discussion I thought members will come up and say when are we to hold such public participation and which place is to suggest to the administration because the administration said it will make logistics for us but we must say under which item do you want public participation and what is the nature of public participation. Do you want to have rallies, do you want to 20

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have workshops, do you want only to have academics or do you want public in general coming in but it seems members are leaving it as it is.

We don't just have a clear, you know, what to tell the administration what we did do regarding public participation because what we expect for reason we expected from this weekend to have started but that has been postponed because arrangement has not been made but then the next weekend we should in other words in next week we must be able to participate in that. We are expected to make delegations to go and conduct such public participation from each Theme Committee in the various areas. Now the format is to what, what format should the public participation take. We should indicate as a Theme Committee to the administration so that they make the necessary arrangements.

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Now could members help us in that please. Just come up with ideas. Mr Moorcroft.

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MR MOORCROFT: Chairperson yes this matter was also discussed at a core

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group at some length yesterday. The feeling that came out of the discussion was that we should suggest to the Theme Committee for their approval the following. That if we look at blocks one to ten on page eleven we will be able to identify there certain shall we say constituencies for wanting a better word which do have their own representation for example the legal community, for example the academic community, for example the religious church communities.

These communities, constituencies, core them what you will 10
would be able through their leaders to give valuable input to this Theme Committee. The feeling was that perhaps invitations should be extended to the organizations involved religious, legal, academic to meet with this Theme Committee in an open session in order to make submissions to us concerning items on the schedule one to ten here on the blocks one to ten which are of specific interest to them. Specific interest but not necessarily the only to restrict them to only one or - or more blocks that - there should be for example the academic community, political scientists 20
etcetera might wish to comment on block two, the question of a single southern state supremacy of the constitution.

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But in the same time we shouldn't restrict them to that, we should allow them to comment freely on any other of the blocks where they might have an input to make. Similarly for the league of fraternity for the church community. With regard to the public at large if I may describe to that as such, it was felt that the public at large is through the media, through the advertisements which have been appearing in the press, on radio and television are being encouraged to make submissions to us.

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The public at large has responded. We have already a number of submissions which have come in. It was felt that perhaps the best way of handling these submissions would be for us to sift through them and perhaps find submissions of particular merits or interest where the person or persons involved might be invited to come and expand further on the ideas to us again in open session as we would be doing with the corporate membership of the other institutions. By so doing we would not be restricting the community participation in any way. Individuals would be free to make submissions. Individuals would be free where there was merit for these individuals to come personally to speak with

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us and at the same time a leadership of community will also have access to this community.

Those were the sort of broad general guidelines which we discussed and which we thought have some merit to lay before this committee. Thank you chairperson.

CHAIRPERSON:

Thank you Mr Moorcroft. Ladies and gentlemen the matter is open for discussion. This is a serious and an important matter. We should try and address it properly. Well 10 handled it might produce good results, but if not well planned and well handled it may cause tensions within the communities. It is important that we come out. Here are certain suggestions that in the participations concerned you target certain groupings. Is that the only feeling - the only view or perhaps do we have any other view which may help us. Mr Kekana.

MR KEKANA:

Thank you Chair. I think it is important to start somewhere we - we discuss this issue. I think the core group is a - has 20 started a very important debate. I want to congratulate them on that particular issue but I don't think it has go deep

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enough into discussions and so on. One feels here that people are talking about out from the core group one the more profit side, reflecting what the core group said. They're talking about public participation but the emphasis seems to be more on a organized formation like academics, religious communities and so on but I think it will be important that we - we start by saying that this constitution is the constitution of the people.

It is not the constitution of the elite unless such, there are 10
other formations which might not fall into this blocks as - as
outlined here for instance it will be very difficult to define
exactly where a civic organization falls you know as far as
this ten blocks are concerned. Those kind of organizations
do have an interest in all detail and therefor to reduce
participation to - this different blocks will actually be very
various and then I think we have to find another way of
reaching out to the public at large you know when talking
about public participation or committee participations we
talking about the organized side of the community and even 20
if they are unorganized how do we ensure as - the CA has
a Theme Committees that - people are generate a interest

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in - in the writing of the constitution and therefore I think we'll then be together with our people writing a constitution a constitution that will identify with, not a constitution that is written by an elite group there you know the (inaudible) ...

So therefor I think that we should agree in principal as the Theme Committee. The most important component in writing this constitution will be the people there and we need to move to the people and we need to ensure that we generate some interest even if some of us might - might be defying the public in to that narrow fashion. I think we need to agree that let's open up and be sure that we reach out to people and they participate. I know there will be some arguments about the budget constraints and so on but I think when we talk of maximum participation we need to stretch our resources to the limit and ensure that we reach out to all our people and not only the organized who are going to be able to afford train tickets and even plane tickets to Cape Town.

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We need to go out. We need to be in - handle this mere by

a - sort of a forum. Thank you.

CHAIRPERSON: Thank you. Doctor Nzimande.

DR NZIMANDE: Ja, thank you comrade chair. I think that I want to follow on from what comrade Matthews said. I don't think we should discuss this thing as if we're starting from scratch and I think that the core group should help us for instance document AO4 page 5. We had discussed as this Theme Committee, brain stormed and listed down a list of structures and people and organizations that we have go to consulted. 10

I think we need to go back to that and I feel that the core group will help us if it could then take from here and begin to even specify or come up with names and I think that I would even put it a little bit stronger than my comrade met there and said that most of this formations will have an interest in all of this civics, they have got a fundamental interest in every point you know which is there. 20

So it's a very important issue that and maybe also the core

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group needs to also assists us by then maybe by concentrating on the process on how we embark on public participation and that process must be a wide variety of activities and also bearing in mind the kind of activities that are going to reach the majority of our people. I am sure as political formations here put together we've got a wide variety of ways that we have used at various times to try and get across.

The other thing I think maybe the core group needs to help us with as a process issue is how then will we process those submissions because it's - it's judging from for instance my experience in the Educations Select Committee the amount of submissions that we got. We got faced with the problem of actually how does one process that. I think is it an issue that we need to look into. I'm raising that in particular so that they don't play lip service to wider consultation. We core for public participation, we core for submission just to satisfy the people that they have consulted and then entirely we do not have a process of seriously analysing and considering that and those things get presented here so that we are able to so that our own discussion are enrich. So in

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short comrade Chair what I'm saying is the core group needs to go back and come with a much more clearer and worked out proposal which then we can we can debate here. Thank you.

CHAIRPERSON:

Thank you very much Doctor Nzimande. Perhaps the question of submission - the processing of submissions is still the next item. The core group have has a decision to make but regarding the question of participation there are a little bit - perhaps different views as to how meant by public participation. What the administration has is indicated to the chairpersons meeting is that we must just indicate what our needs are then they will make the logistics and make arrangements.

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Then we must come up what - by public participation. What is it that you want? In what format do we have in mind as a Theme ?Committee? Now they need only those guiding principles then they will make all the necessary arrangements. They are there as supporting staff. We must just indicate. We needed to take this home and we needed it in this manner in that way. So that one is actually not

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that difficult.

We need only guiding principles to give to the administration. They are ready. They have a liaison, what is that section, Community Liaison Department which is dealing with that. So they only need principles. What are the needs of the people? That is what they expected to - to come up just with principles now and then give to them those principles. And then another aspect they expecting from us, after giving such guidelines we must be able to form delegations which will attend those public participations. They expect us to come up with that but the major thing now is the principles. What format do you want?

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For instance it is important as it's been said that we have various communities and the civics which will like to comment on almost all this but how we structure the whole thing. Do we have rallies to be attended by certain delegations from the Theme Committee? Do we have workshops? What format do we got? We only have a view groups in a closed building where your doing it? In other

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words the Liaison Committee expects us to come with principles. That's what is expected that we must come. Now going about this meeting is impossible. Those principles must be there and we must look at not only at block one, there all the ten blocks so they can make arrangements in advance, because if you tell them that this week you want to go there why didn't you tell them before they indicated that, it might be a problem.

So we must be able if it is possible today for us to come up with that. It will be a bonus for the Liaison Section. So what I'm trying to extract from the meeting that we do have such principles. What do we want? What do we mean? What do we understand by public participation and how should they be organized? Any input? Any other input? 10

UNKNOWN:

Chairperson. Chairperson I don't think anybody can have any objections to the idea of public participation because that's been agreed to. As far as I see the picture the whole thing is how we're going to do it and I believe that the public outside regardless where they live by now and with the effort from Constitutional Committee to get people to 20

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know more about the Constitution made in South Africa. I believe the public is going to become very, very much aware of what we are going to do within the next within the next few months.

So I think it is up to the public and to the parties structures to get to people to understand that we are busy with this and then to make representations to us whether it be in writing or verbal or whether they'd like to see us personally.

I think that will depend entirely on the action of the public outside but my suggestion would be that the moment you have written submissions or even submissions by fax and so forth that the people would like to see us then we should go out and listen to their evidence and so forth and listen to their suggestions.

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But I think we should if we want to do this properly we obviously will have to start with it as soon as possible because otherwise you are going to find yourself in the situation where there will be tens of these organizations, Governmental, non-Governmental, Voluntary Organizations, Civics who ever they are. We'll find it impossible in the

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time frame we have available to us to see all these people. So I would my suggestion would be that we that we develop this campaign of getting the people outside to know that we are busy with this and to make representations and then we draw up a programme of how we're going to see the work.

Is it going to be the whole Theme Committee of just groups of people listening to them and to put questions to the people. In other words the way that one normally does with a Commission of Enquiry or with a Select Committee or 10 with a Standing Committee if you want to have evidence. I think if you go out and attend rallies and so forth. It all will be very nice to go to that but how far will we get? How far will we get in order to get the submissions of the of the people and this is what we want. You want them on paper and you want people to give verbal evidence to us and to explain why they want certain changes and will they approve of what we are and what we aren't doing.

CHAIRPERSON: Thank you. (inaudible) ... 20

UNKNOWN: After listening to the speaker to the honourable member.

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I'm getting my manner that it's quite important that we have to stick to fact we have to go out on our own and sometime it doesn't have to be parties but we have to go all of us. The link that we want to build here, it is to empower our own people because these what was suppose to come of this, that's a broad principle. That's to push all of us here. How far do South Africans understand I mean the constitution itself and how much do they participate. It doesn't have to be urban based those that have fax and I mean post office, that can make it easier for them to write or to fax us here.

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But the people in the urban and in the rural areas, it is quite important for them to participate in this process because the constitution is also meant for them. So I'm saying that the question of empowering of them are quite crucial at this processes so I will really move that even if it go to the levels of rallies, I suppose we need to be quite sensitive here that our people the rate of illiteracy in our Country is quite high you see. It is not going to be easy.

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We all agree that it is not going to be a easy process where it's - you only allow academics to write to us and talk to us

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but the man who speaks Venda must be able to have a input in the constitution through his own language and to how he understand the constitution. So that he is not left out tomorrow and where we end up saying this is your constitution and if your alienated by the process that we have put into place. And that is my concern. So I'm really saying that maybe the people's forum form part of that process. Of how far it goes. It's something that we all have to agree here that how far are we prepared to say maybe on block one for how many peoples forum are we prepared for.

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If we are not prepared for ten blocks, we all agree we are not prepared for ten but we will be able to do five or six. I mean where are those people's forum going to be organized in Guguletu. Is it be organized in the Northern Transvaal in the rural area, it's to empower those people to understand that this constitution is meant for them. Some of theme don't have TV's, they don't have radio's. They have got small radio's but those radio's don't explain anything. What does it mean for them to be part of it the constitution making process?

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CHAIRPERSON: Thank you. Ms Seaton.

MS SEATON: Mr Chairman I'm a little concerned. I believe that we are at this stage so far behind that we don't even have parties submissions. We don't even know what parties stances are on this issues yet. How can we now start defining how we go about public participation. In broad principles, yes, but I think with all due respect we have to get our own act in order before we can really decide how far we take public participation.

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CHAIRPERSON: Ja, I think as it have been advertised by the chairperson or the officials of the CA . The constitution has not have been written in other words submissions are requested from parties public and everybody and physical participation of the public also one of the instruments to be used. So we I don't think the question that the submissions are not there, they are not preclude arrangement or public participation. I don't know. It is open for the meeting to decide on that. Any other input?

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UNKNOWN: Mr Chairman. Mr Chairman I don't think there's a

question of being opposed to consulting the people outside. I think the question is when do we want to consult with the people. Do we want to go to the people without anything in our hands that we can put before them for discussion or do we want to go to the people and ask them what we must put on report for them to discuss again. And I think we have an obligation as elected representatives of the people to at least get some information from certain or specific or how many interested groups as possible and with that in order then go with something to the people and say that is what the interested groups putting up and putting before us for writing into this constitution. What is your comment on it but really sir, I think we must be very frank about it and perhaps overall the communities.

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If we want the people outside who know nothing about constitutions and things like that to write a constitution for South Africa, Sir. We will sit here for the next ten years and we get absolute mess at the end of the day. We have a obligation to give some guidance in this whole process. So I think it is very important that we do at the process at honour and that how we are going to process this whole

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effort. I think it is very immature to at this stage to say we are going out to the people to consult the people about what.

CHAIRPERSON: Thank you. Any other input?

UNKNOWN: Ja, firstly I would like to disagree with the honourable member who has just spoken. My understanding of what he's saying is that Constitutional lawyers should write the constitution because they are the people who understand the constitution. But what I'm saying is that people know the type of governance they want to have. They know at what level government should interact with them more or less. They have been governed before. They have known the disadvantages of not been represented in government. They know the advantages of representation all be it not in the former government sense but in different organizations particularly during this period of struggle. They have been governed because they had acted in one way but it was not by the state.

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Some people have been exposed to constitutions one way or

the other. Correctly it may not be the western type of constitution but their basic law I believe is what the constitution is and the basic law is what causes harmony generally and that people do understand. And therefor to say that people do not know anything about constitution is being a little too academic for reality in our country. And what I'm proposing is that we've got to classify the input, the submissions we get.

Classify it into organized formation of formation of society 10
like religious bodies. I intend not to like the word churches which tends to exclude say religions like Islam, Hindus and so forth. Perhaps the titles should have read religion and the state but I don't know what are the merits of eventually reaching church and state. And let us then classify those organized formations for the sake of management and then amongst ourselves there should be people attending then to churches, other people to labour formations, other people to business formations, legal and so forth depending on our previous exposure and then the unorganized ... 20

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