

2/1/0/6

CONSTITUTIONAL ASSEMBLY

CONSTITUTIONAL COMMITTEE

**DRAFT REPORT OF DISCUSSIONS
9 AND 10 NOVEMBER 1995**

CONSTITUTIONAL COMMITTEE DISCUSSIONS OF 9 AND 10 NOVEMBER 1995

The following documents were adopted:

The report below reflects discussions of the:

Refined Working Draft (Second Edition) as presented by the TRT
and additional documentation as indicated:

SECTION	SUBSECTION	DECISION
PREAMBLE:		
CHAPTER 1 FOUNDING PROVISIONS:		
Republic of South Africa		
1		
Supremacy of the Constitution		
2		
Citizenship		
3		
Territory of the Republic		
4		
National Symbols		
5		
Languages Further documentation tabled: Memorandum from Executive Director on Official Languages		
6		

**CHAPTER 2
BILL OF RIGHTS**

**Further documentation tabled: Supplementary Memorandum on Bill of Rights
and Party Submissions**

State's duty to respect and protect rights

7

Equality

8

(1)

(2)

(3)

(4)

Human dignity

9

Life

10

Freedom and integrity of the person

11

(1)

(2)

(3)

Slavery, servitude and forced labour

12

Privacy

13

(1)

(2)

Freedom of religion, belief and opinion		
14	(1)	
	(2)	
	(3)	
Freedom of expression		
15	(1)	
	(2)	
	(3)	
Assembly, demonstration and petition		
16		
Freedom of association		
17		
Political rights		
18	(1)	
	(2)	
	(3)	
Citizenship		
19		
Freedom of movement and residence		
20	(1)	
	(2)	
	(3)	

	(4)	
Economic activity		
21		
Labour relations		
22	(1)	
	(2)	
	(3)	
	(4)	
Environment		
23		
Property		
24	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
	(7)	
Housing and Land		
25	(1)	
	(2)	

	(3)	
Health, Food, Water and Social Assistance		
26	(1)	
	(2)	
	(3)	
Children		
27	(1)	
	(2)	
	(3)	
Education		
28	(1)	
	(2)	
Academic freedom		
29	(1)	
	(2)	
Language and culture		
30		
Access to information		
31		
Administrative justice		
32		

Access to justice

33

Arrested, detained and accused persons

34

(1)

(2)

(3)

(4)

Limitation of rights

35

(1)

(2)

(3)

States of emergency

36

(1)

(2)

(3)

(4)

(5)

(6)

(7)

(8)

Enforcement of rights

37

(1)

(2)

Application

38

(1)

(2)

Interpretation of the Bill of Rights

39

(1)

(2)

(3)

**CHAPTER 3
PARLIAMENT****Legislative authority of Republic**

40

(1)

(2)

National Assembly:**Composition and election of National Assembly**

41

Qualifications of members of National Assembly

42

Vacancies

43

(1)

	(2)	
Oaths or affirmations by members		
44		
Sittings and recess periods		
45	(1)	
	(2)	
	(3)	
Elections and duration of National Assembly		
46	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
Speaker and Deputy Speaker		
47	(1)	
	(2)	
	(3)	
	(4)	
Decisions		
48	(1)	
	(2)	

	(3)	
President's rights in National Assembly		
49		
Internal autonomy		
50	(1)	
	(2)	
Parliamentary privilege		
51	(1)	
	(2)	
	(3)	
Bills		
52		
Constitutional Amendments		
53		
Assent to Bills		
54	(1)	
	(2)	
Promulgation		
55		

Safekeeping of Acts of Parliament		
56		
CHAPTER 4 SENCOP/COUNCIL OF PROVINCES		
Establishment		
57		
Powers and functions		
58		
Qualifications		
59		
Oaths or affirmations by members		
60		
Sittings/Meetings		
61	(1)	
	(2)	
	(3)	
	(4)	
President/Chairperson		
62	(1)	
	(2)	
	(3)	
Decisions		
63	(1)	

	(2)	
	(3)	
Rights of members of Cabinet and Executive Councils		
64		
Internal autonomy		
65		
Privileges and immunities		
66		
SENCOP and the legislative process		
SENCOP and intergovernmental relations		
CHAPTER 5 THE NATIONAL EXECUTIVE		
Executive authority of the Republic		
67	(1)	
	(2)	
The President		
68	(1)	
	(2)	
Powers and functions of the President		

69	(1)	
	(2)	
	(3)	
	(4)	
Election of President		
70	(1)	
	(2)	
Assumption of office by President		
71		
Term of office of President		
72	(1)	
	(2)	
Vacancies		
73	(1)	
	(2)	
Acting President		
74	(1)	
	(2)	
Removal of President		
75	(1)	

	(2)	
Cabinet		
76		
Deputy Ministers		
77		
Continuation of Cabinet after elections		
78		
Oath of office		
79		
Accountability of Ministers and Cabinet		
80	(1)	
	(2)	
Conduct of Cabinet Members and Deputy Ministers		
81	(1)	
	(2)	
Temporary assignment of powers and functions		
82		
Transfer of powers and functions		
83		
Votes of no-confidence		

84	(1)	
	(2)	
	(3)	

**CHAPTER 6
COURTS AND ADMINISTRATION OF JUSTICE**

Judicial authority

85	(1)	
	(2)	
	(3)	
	(4)	
	(5)	

Judicial system

86		

Constitutional Court

87	(1)	
	(2)	
	(3)	
	(4)	
	(5)	

Supreme Court of Appeal

88	(1)	
	(2)	

Other courts

89	(1)	
	(2)	
	(3)	

Decisions in constitutional matters

90	(1)	
	(2)	

Appointment of judicial officers

91	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
	(7)	
	(8)	

Tenure and Remuneration

92	(1)	
	(2)	
Removal		
93	(1)	
	(2)	
Judicial Service Commission		
94	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
Other matters concerning courts		
95		
CHAPTER 7		
INSTITUTIONS SUPPORTING CONSTITUTIONAL DEMOCRACY:		
Establishment and governing principles		
96	(1)	
	(2)	
	(3)	
	(4)	

	(5)	
PUBLIC PROTECTOR Functions of Public Protector		
97	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
Tenure		
98		
HUMAN RIGHTS COMMISSION Functions of Human Rights Commission		
99	(1)	
	(2)	
	(3)	
COMMISSION FOR GENDER EQUALITY Function of Commission for Gender Equality		
100	(1)	
	(2)	
	(3)	
AUDITOR GENERAL Functions of Auditor General		
101	(1)	

	(2)	
	(3)	

Tenure

102		
-----	--	--

ELECTORAL COMMISSION
Functions of the Electoral Commission

103	(1)	
	(2)	
	(3)	

Composition of the Commission

104		
-----	--	--

GENERAL PROVISIONS
Appointments

105	(1)	
	(2)	
	(3)	
	(4)	

Removal from Office

106	(1)	
	(2)	

CHAPTER 8
PROVINCES

Provinces

107	(1)	
	(2)	
Application of this chapter		
108		
PROVINCIAL LEGISLATURES Provincial legislative authority		
109		
Composition of provincial legislatures		
110		
Qualification for membership of provincial legislatures		
111		
Vacancies		
112	(1)	
	(2)	
Oath or affirmation by members		
113		
Sittings and recess periods		
114	(1)	
	(2)	
	(3)	
Elections and duration of provincial legislatures		
115	(1)	

	(2)	
	(3)	
	(4)	
	(5)	

Speakers

116	(1)	
	(2)	
	(3)	
	(4)	

Decisions

117	(1)	
	(2)	
	(3)	

Internal autonomy

118	(1)	
	(2)	

Privileges and immunities of members of provincial legislatures

119	(1)	
	(2)	
	(3)	

Assent to Bills

120	(1)	
	(2)	

Promulgation

121	(1)	
	(2)	

Safekeeping of Provincial Acts

122		
-----	--	--

PROVINCIAL EXECUTIVES
Executive authority of provinces

123	(1)	
	(2)	

Powers and functions of Premiers

124	(1)	
	(2)	
	(3)	
	(4)	

Election of Premiers

125	(1)	
	(2)	

Assumption of office by Premiers

126		
-----	--	--

Term of office of Premiers

127	(1)	
	(2)	
Vacancies		
128	(1)	
	(2)	
Acting Premiers		
129	(1)	
	(2)	
Executive Council		
130		
Continuation of Executive Councils after elections		
131		
Oath of solemn affirmation		
132		
Accountability of members of Executive Councils		
133	(1)	
	(2)	
Conduct of members of Executive Councils		
134	(1)	
	(2)	
Temporary assignment of powers and functions		

135		
Transfer of powers and functions		
136		
Votes of no confidence		
137	(1)	
	(2)	
	(3)	
	(4)	
PROVINCIAL CONSTITUTIONS		
Adoption and certification		
138	(1)	
	(2)	
	(3)	
CHAPTER 9		
PROVINCIAL AND NATIONAL LEGISLATIVE AND EXECUTIVE		
COMPETENCIES		
Legislative authority of the Republic		
139		
Legislative authority of provinces		
140	(1)	
	(2)	
Framework legislation		
141		

Necessary ancillary powers		
142		
Conflict of legislation		
143		
Integrity of provinces		
144		
Executive authority of the Republic		
145	(1)	
	(2)	
	(3)	
Executive authority of provinces		
146	(1)	
	(2)	
	(3)	

	(4)	
CHAPTER 10		
LOCAL GOVERNMENT AND TRADITIONAL AUTHORITIES		
LOCAL GOVERNMENT		
Establishment and status of local governments		
147	(1)	
	(2)	
	(3)	
	(4)	
Powers and functions		
148	(1)	
	(2)	
Finance		
149	(1)	
	(2)	
	(3)	
Elections		
150	(1)	
	(2)	
	(3)	
TRADITIONAL AUTHORITIES		
Recognition of traditional authorities		
151	(1)	

	(2)	
	(3)	
	(4)	

CHAPTER 11
PUBLIC ADMINISTRATION:
Basic values and principles governing public administration

152	(1)	
	(2)	
	(3)	

Public Administration Commission

153	(1)	
	(2)	
	(3)	
	(4)	

Public Service

154	(1)	
	(2)	
	(3)	

CHAPTER 12
SECURITY SERVICES
Governing principles

155		
-----	--	--

Establishment, structuring and conduct of security services

156	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
	(6)	
DEFENCE		
Defence Force		
157	(1)	
	(2)	
Political responsibility		
158	(1)	
	(2)	
Command of defence force		
159	(1)	
	(2)	
Defence civilian secretariat		
160		
POLICE		
Police service		
161	(1)	
	(2)	

	(3)	
Political responsibility and accountability		
162	(1)	
	(2)	
Control of police service		
163	(1)	
	(2)	
	(3)	
	(4)	
	(5)	
Police civilian secretariat		
164		
INTELLIGENCE Establishment and Control of Intelligence Services		
165	(1)	
	(2)	
Powers, functions and monitoring		
166		
CHAPTER 13 FINANCE: GENERAL FINANCIAL MATTERS National Revenue Fund		
167	(1)	
	(2)	

	(3)	
Annual Budget		
168		
Procurement administration		
169	(1)	
	(2)	
	(3)	
	(4)	
Guarantees by national government		
170		
Accountability of enterprises receiving public funds		
171		
Remuneration of persons holding public office		
172	(1)	
	(2)	
	(3)	
FINANCIAL AND FISCAL COMMISSION		
Establishment		
173		
Functions		
174	(1)	
	(2)	

Appointments, qualifications, tenure and dismissal of members		
175		
Reports		
176		
CENTRAL BANK Establishment		
177		
Primary object		
178	(1)	
	(2)	
Powers and functions		
179		
CHAPTER 14 GENERAL PROVISIONS		
International agreements		
180	(1)	
	(2)	
	(3)	
Customary international law		
181		