



Constitutional Committee

Contents Vol. VI

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Constitutional Committee 1 September 1994

de Lange

Constit.:

- 1) There shall be a coat of arms as contained in a proclama.
- 2) Get MC to sort out new mechanism: process in place to find new coat of arms.

Marais

- 3) One of terms of reference or financial implications
- 4) To be complete by time new constitution finalised.

Ramaphosa

Agreed

Symbols

Ramaphosa

...

Corder

Generic term: flag, anthem, coat of arms, seal.

Seat of Gov't

Marais

Let stand over until parties have finalised their positions.

Nzimande

Agrees

Symbols

p. 35: FF proposal: vi)

Nzimande

ask FF to speak

Mulder

Nat'l vs. provincial symbols. Number plates, Not to compete w/ nat'l. Coat of arms - for letterheads etc.

de Lange

Wd this imply new provisions
 of provinces can draft their own constitutions, they can adopt own
 symbols

Du Toit

No, provinces can adopt official symbols. Can do coat of
 arms, as if tennis club.

Petro

Shd be stylistic matters, otherwise diff styles cd be a
 mess.

Chabane

Need to discuss how this constit. wd relate to provincial
 symbol constitution. Provincial vs nat'l flags.

Marais

Local auth.s have own coats of arm & flags.
 Ask secretariat to consult State Herald.

Nzimande

If provinces can have own symbols, wd this be via
 provincial constitutions or provincial legislatures.
 Concerned that cd b/c source of disunity.
 Shd promote provincial unity, not nat'l problems

Zylin

People shd be free.
 Doesn't require constitutional provision as has no
 statutory effect.

Ramaphosa

Ask Tech. Experts who cd. consult State Heraldry +
 Heraldry Foundation on implications & how to
 best deal w/ this.

~~Language~~

Kgositsile

Agrees w/ Marais - sensitive issues. Be
 aware + take into consideration, world

Trade Center und is different from now.

Chabane

Drafts?

Marais .

NP position on draft reserved. Want Report 24-25 to be basis of discussion.

Pahad

Let experts look at issue of sign lang. ^{see whether should be catered for in p 23 (5)} + Pan African Lang. board

Chabane

Provision in p.39 A(1) - cd it cause conflict w/ Bill of Rights - access to courts etc. . Sign language's role here: ?

Ramaphosa

Yes ^{could} look at Impact on Bill of Rights

Pandor

A(3) Lang.s of communication . Cd limit to Eng. & Afrikaans.

Ramaphosa

Can't resolve today.

Refer to sub-comm w/ could take further Invite sign lang people Proposal re. Pan SA Lang. Board.

Allow PAC to make new submissions

Take into account what's in IC .

Agreed

5. Preamble & Post Amble

Doc. agreed to

Wissels

Spoke to Sub. Comm Report.

p1 ✓

C. Terms (Duration)

Leave in abeyance until debate Electoral System.

Eglin

TC2 used words "common voters' role" "in general will result in proportional rep." ; differs from wording here.

Propose "resulting in proportional rep." here.

v. Borda

If agree wd be purely proportional system, right words need to be used. Uly later than, not on.

Wissels

Memo or Draft?

Eglin

Go to text, but only discuss items referred to in memo.

Pahad

(1) Re Electoral System: don't be bound by any part. phrasology, now. Wd be electoral system where proportional representation wd be the critical feature

(2) "Fixed term": queried meaning. footnote required to explain the positions.

D. Speaker vs Dep-Speaker.

Ask Secretariat to facilitate the private discussions.

F.

Pahad

Report looks like things in conflict w/ freedom of ...

Said: can't discuss issue in isolation from electoral system.

Noted

G. Shelved

Agreed

H. Assent to Bills

Pahad

Speaker? Introduced in middle. Replace "speaker" w/ "state president"

^{amended}
Refer/formulation to sub-committee

Eglin

(1) Hold over matter re. parliament ed. refer.

(2) Constitutionality of Bill? Thought related to procedures.
Refer back to sub-committee.

de Lange

Powers & privileges for parliament; Not full account:
e.g. calling any person to parliament
e.g. way committees operate.
Why not?

Stajler

Recog. committees, power to subpoena - to be dealt w/ in rules & regulations of parliament.

Wissels

Don't recon debate, here, but at sub-comm,
~~sd.~~ ANRC to urge its rep.s to raise at sub-comm.

WP

Capacity of Nat'l Assembly members to call
sitting of panel.

These 2 matters wd. be listed for referral to
~~the~~ sub-comm.

A. D. B.

None

Closure

BHOD.

Recognition

All discussed previous time former
stages looked at bill proposal,
decided to report on proposal that
proceeds up with the
General public at meeting - sd by

Constitutional Committee

8 Sep 1995

Apologies

Panel

In Attendance: Z. Yacoub

TZs: H. Corder, Prof^W Kaath, W Breytenbach (TZ 2)

Admin: M. Spang, L. Meyer, D. Powell, N. Mhizi, A. Meyer, M. Keyser

1. Opening

Ramaphosa

09h 19

Agenda adopted

Apologies:

noted.

2. Minutes

~~Assess~~ Sifra

Apologised: to be amended.

Ripinge

p. 4 3.1.5. 8 i. formulation corrected
" 6.9.i included

~~to~~

Adopted.

3. Matters arising

None

4. 4.1

Ramaphosa

MC discussed process: time frames + stages, looked at tabled proposal, decided to reflect in proposal that process ed. go into Nov.

General feeling at meeting - sd try +

next deadline.

Doc. in pack wd. need to be reworked to take into account decision to change the deadline.

Let

1 or 2 comments, let CC agree in principle to MC decision that we sd try by all means to meet deadline set a MC to work on new doc. to submit next wk.

v. Breda

Last wk's CA, complaint re. absence of cabinet ministers. Const. process hasn't had precedent in parliamentary process - meets only Mon + Fri; little involvement of leadership of most parties.

Interruptions paralyze the product. Urgent need that all b/c more focused in CA structures.

Deadline in IC for obvious reasons.

Country needs finality; uncertainties re. property rights, basic human rights.

Deadline: early May or as close as possible. Calculated risk: if miss deadline - election.

NP not opposed to election, but can't afford this.

How to handle issue?

Programme: intensified up until opening of Parlia.

Can Sama. give assurance that on 1 Feb. give an assurance about whether can we meet deadline.

Make commitment that will amend constitution of Govt.

Agus - rethink at programme - meet IC's challenge.

Pamphosa

Asmal

During free won't be election; but suggest revised view, b/c wd concentrate the mind.

Any consideration wd subvert the momentum we need to create.

MC consider programme b/t now + parliament's reconvening in 1996.

de Lange

Wd welcome elections.

So far, process correct, allows public involvement. But has changed now. Blocks / weeks at a time, so can concentrate, read & study.

Asked

Let MC look at meeting schedule: Mon & Fri + blocks.

Mossa

MC: ANC view - 8 mo away from 9 May, Audit of TC work: bulk of const. has been discussed by parties & drafted into const. issues. Have more than enough time, even for public comment.

①

Asked: built into proposal - 1st working draft by end of yr.

Gaps - provide options

Timetable

(2)

early 1996: set aside intensive time, almost day to day, for a few weeks. Continuous to complete the job.

Timetable: final adoption sd be before 7 May - otherwise will drive country into hyperinflation.

(3)

Try for April.

Eglin

a) Don't be hostage to a date; but date set a pace & concentrate the mind. Aim for date, but more realistic to think of end of June than May.

b) Needs a different focus & more, a different will.

Process has avoided taking tough decisions, which have been shuffled around.

c) Need blocks of time during recess after the municipal elections, but then whole of Nov., 15 Jan - 9 FEB.

d) Change format of rela. b/t parlia & CA work. No one focuses on CA. Prevalent on parlia, other than budget work, CA should have preference for 1st 4 months, & given weeks at a time.

Wd allow for concentration of mind, bilaterals & necessary informal discussions.

3 formal days work, 2 informal days for negotiation.

e) When publish 1st working draft, ask for public comment. Intense public part. on working doc.

& then carry on + finalise.

Ramaphosa

Consensus

All pts put thg + put in doc. for PLC next Thursday.

Hjzmyr

Agus w/ Eglin.

MC sd. canvass - no decision making mechanism in CC; can have 80% - 90% agreement + no decision made.

Also, issues w/ aren't crunch issues + need to dispose of them thru decision.

Let this be part of proposal

Ramaphosa

Agree: stick to deadline
doc. redrafted - proposals, thought + views wld be incorporated.

Stages set out

Rescheduling work now - recess, beyond elections

Sub-Comm + CC to meet ~~the~~ during recess

Sub-Comm will need to meet to deal w/ substantive issues

Reschedule work: to meet before Paulia opens

More concentrated work

Include Eglin's proposal: CA work to take precedence except scheduled Paulia work.

Next MC, to discuss more proposals in producing
draft.

4.2 Mandates

	Doc.
Sifra	Asked to Note: correction of header needed was
Rama	Doc. w/ drawn & wd. be replaced.
Ebrahim	Need last CA on 15 Sep. mandates to ask: 1) CA meeting 2) SubComm + CC to meet to cont. w/ work 3) CA agree to resumption of work by 15 Jan or as soon thereafter as poss, intense work \Rightarrow partial opening.
Rabie	CA to pay claims Recess meeting - hiring of vehicles, accomoda- tion.
Ramaphosa	Yes - CA wd. bear costs. Meeting in CT
Asmal	Asked whether absolute for CA to meet on Friday. Can it ^{do} w/o CA meeting Mandate to proceed in a different line. Is mandate needed to keep meeting. Pts. 1 & 2: MC sd. drive us. MC decides programme & works out CC prog.

Wed free Friday for legislative work.

Ramaphosa

"Other lot", who are they?
 Agreed
 Proposing CA doesn't need to meet, but CC can meet.

Zylin

Don't meet in CA. Is it needed for management reasons, but need to know if CC has auth. to publish 1st working draft of constitution.

Moosa

MC: wd ask subcomm to tell Director of when wd. be available.

Remove 2.1 of doc.

May not need CA plenary b/c working draft wd collate matters where there is consensus + where not, options + outstanding issues.
 Don't need mandate.

Gordhan

Need joint sitting Tues - let there be a 1/2 CA then.

Ramaphosa

Less inclined to use joint sitting.

D du Toit

IC distinguishes b/t drafting + adoption: IC 68(2).

For drafting 72 on, + prov. of rules + orders:
 Can publish ← CC as part of drafting

Ramaphosa

Agreed, no CA on 15 Sep. + w/in our rights + brought mandate to continue meeting b/t now + next CA in 1996 to do all need to do of work, including compilation + publication for further comment.

Ramaphosa

But cc in a.m. + Sub-Comm in pm.

Agreed

43 Working Draft
Ramaphosa

Doc. tabled "Working draft: Constit. of Rep. of SA."
Draft to give CC idea of what might look like.
Format may be rearranged. Rough working
draft.

Du Toit

Asked: redrafting, decide to start in principle
on technical tidying up.

If not, certain formulations not have life on own.

3 people team to clear up

1) technical +

2) language

Different kinds of experts, but all work tog.

No opposition to working doc. like this, in future

1) Look at du Toits

2) Reformatting + other matters

Sub-comm + ME to be taking decisions
as move along.

5. TC2: Self-Determination

Pahad:

Re. pt. 2 : TC² decided to refer
Paper by Prof. Raadt to TC⁴; not to
make exception & bring it to attention of CC.
sdn't be question of debating substantive
issues w/ tech. experts.

Also have statutory Volkstaat Council.

Buyers

Disagrees. TZ2 decided the paper shd. be forwarded to CC & TZ4.

Ramaphosa

Shd lengthy debate occur on this? Both proposals have merit; shd. be considered by TZ4 + nothing out of order if CC refers to it.

Pahad

No problem, but wd be referred to CC to get CC consent that cd. be referred to TZ4.

Ramaphosa

The paper has bearing on self determination, let it be considered.

N. Mahlangu

Introduced doc. in documentation. focused on p. 32

Ramaphosa

Difficulties:

- (1) Tech Advisors had problems compiling a schematic reports b/c only parties w/ support Volkstaat supplied submissions
So schematic report incomplete.
- (2) Matter quite contentious.
- (3) Only 1 interim report from Volkstaat Council. Not sure how many others wd. be forthcoming.
- (4) Disagreements in discussion
 - a No self-determine on ethnic lines
 - b " " " cultural "
 - c Territorial self determination or secession

Pro Volkstaat has differences.

Afrikanerbond: voluntary councils - advisory, statutory, appt. cd.

NP: sd be elected, & should be given decision making
power in list of competencies. ¹⁷

FF; Volkstaat Council, CP: Territorial self-determination
Volkstaat Council = FF: Self determin., part of SA
Others like CP: in favour of accessionist states.

Tech Advisors way forward p. 32

Asked:

- 1) how sd. debate on matter continue
- 2) Status of "proven support"
- 3) open ended approach
- e) TZ4, TZ1 lang. & citizenship
- (NB) { f) CP 34 sd be somehow included in
constitution to allow ongoing negotiations -
- g) proposal

Ramaphosa

Asked for general remarks, if none, look at way forward.

~~du Toit de Lange~~

If accept g, why accept (h). What is entailed as
"cultural self-determination". Nd adopt principles
while discussions ongoing = report still outstanding.

Ramaphosa

Out of order. Seeking general remarks.
Need to approach this issue w/ a great deal of
care.

Beyers

NP's view flows from policy to promote
empowerment & rights of minorities.
XXXIV requires CA to establish
accommodate minority rights.

To avoid conflict, + entrench democracy.
In favour of cultural councils, ~~not~~ Volkstaats.

Volkstaat hasnt forwarded proposal w/ map that has¹⁸ support of the majority of people who support the idea.

Can't be resolved before deadline, so oppot. must be given to continue negotiations afterwards.

Problem: Volkstaat Council distinguishes Afikaans speakers on ground of race. NP disagrees + says proposals must remove consideration of race.

To do justice to concept of self-determination.

Provision sd be made for cultural bodies, state supported, not geographically based.

Argue while no practical proposal re Volkstaat; consensus must be reached on cultural self determination in support of f.

Wd be spirit of true reconciliation; & in bringing about true democracy; to instill certainty + promote nation building.

Viljoen

Example of good conflict solving.

All agree, self determination effects everyone + should benefit everyone. FF trying to find a solution w/ gives Afikaners a role + a way of maintaining their cultural i.d.

What are Afikaners? Effects way self-determination applied.

Vo-a-vo proven support. Effects Afikaner people, who need to address this.

1st indications: not great success in elections, & maybe 1 Nov. elections might help esta. proven support.

CA or CC sd give guidelines on how to ask Afrikaners what they want.

Practical/Outstanding Matters

- (1) Inquiry. Volkstaat Council report here in Nov.
- (2) Application of self-determination. can be term or cultural,
- (3) & informal discussions b/t parties needed.

Sizani

1) Matter serious. Legit Volkstaat idea as long as secessionist. Welcome shift in report to new terms, cultural self-determin. hopeful; but want clarity on what it entails.

Want concepts further unbandling.

2) Refer matters to TC4 for further submissions + discuss.

3) Welcome approach of pol. party discussions on FF views.

4) Still concerned about use of term self-determination, isn't given full expression in SA. Can look at how protection ed. be fit in, but problematic term itself.

Ramaphosa

Look at proposal now.

Reconvened.

T. Rabie

Queried: pp. 37-45 - To be referred to TC4

But TC4 no longer sitting.

Ramaphosa

Admin wd. facilitate this.

Ramaphosa

Ad Hoc Committee on Self-Determination Proposal pp. 32-33

20

(a)

Agreed.

Guidelines: nego. shd continue, & where necessary, parties could discuss matters, shd be multilateral, bilateral.

Poli. process must include discussions & negotiations among parties to find solutions.

(b) Re agreements:

CA may not be able to do so now; part of discussions b/t parties.

Pebad

~~CA~~ suggested that the 3 parties concerned meet, & say what they meant, & advise CA.

Ramaphosa

That would be part of the political process.

(c) }

(d) part of discussions that shd. take place.

(e) same

(f) Matter wd be addressed once embark on political process in (a)(b)(c)(d)(e). If no finality wd need way forward. Will be discussed. Don't address now.

(g) firm proposal. Shd be broader, after consultations b/t parties, this is something that could be addressed, No firm decision needed now.

(h) remove word "insist", replace w/ "propose" - wd be in line w/ spirit evolving here.

Ramaphosa

That set out in 6 generally acceptable except that alluded to that wd be dealt w/ in negotiations.

21

Mablangu

Last TC/^{Meeting} Monday. Arrangements for ad hoc committee needed.

Ramaphosa

Wd be done.

Query: once meetings occurred, sub-committee ceased w/ matter + wd ensure discussions occurred.

6. TC 6.2 Financial = Fiscal Comm.

Dr. Davies,

"TC 6.2 Report on Financial & Fiscal Comm"
CP 27.

Clause (d) in p. 4: NP said FFC sd have powers in rela. to local govt w/ sd be handled by loan ÷ of Dept. of Financ.

Revised position to look at,
for 10 corrected: DP + FF A look at in light of
equivalent of clause 154(4)
when final shape

3(i) ANC: IC ambiguous as to whether this an advisory body of experts or representative body.
Prefers former.

Wd have 18 members: 1 per province +
9 appt. ees.

Leave for legislation.

Shd be by President + Cabinet + Committee w/
rep.s from Parliament.

Propose provinces nominate but not sit in Commission.
fn. matters.
DP etc. sdnt be in constt, but in legislation.

NP said sd be only 4 or 5 people on Comm.

Need to react to proposals to see level of agreement.

Other provisions:

DP include all; ANC include none.

Stent

Agree on clauses 1 & 2

Debate w 3. Agree many sub-sections of IC can be deleted, but essential things sd be retained.

Members serving on FFC sd be experts, except for Chair.
People from provinces sd represent provinces.

Keys said balance people from central gov to provinces.

Wd had to 18 people. + 2 full time: Chairperson & Dep. Chair.

SDnt create new bureaucracy; The 8 not full time, rather 2 full time sitting in central govt.

Provincial rep.s, busy full time in provinces, part time w/ FFC. Wd recommend -

Experts in local auth. finance be nominated.

More than 1 specialist in this matter in Commission.

Prov. Exec Comm to nominate its rep. to Gov. who then appt.s.

Ramaphosa

Refocus on draft formulations

Mossa

Report improves current provisions in IC.
Problem: not as yet able to deal w/ equivalent of 155-157 of IC: provincial powers on financial & fiscal matters. Needs to be considered before matters like composition, methods of appt. can be dealt w/.

if changes substantially from IC,

In general, accept this, but return to outstanding question [3(i)] when ~~prov. powers~~ functions defined.

Muller

Clause 3 should be in const. . But need to represent CP 27. It be accommodated in way Clause 1 is formulated.

Lylin

1) CP 26 critical each level w/ "constitutional right" to equitable share of revenue. The Committee wd. ensure this.

There has to be enough in const. to protect the integrity of this committee.

2) Function diff. to define before have better sense of provinces. Not necessarily a negotiating body.

Raising of loans, taxes etc. might not occur here.

Has eliminated too much.

Davis

Agrees - matter to be processed by w/ proposals on intergov'tal ^{for union structure} fiscal relations to TC 3.

Ramaphosa

Wd mean - not deal w/ it now

Davies

Refer it until report from TC3 come in.

Ramaphosa

Agreed7) General Financial Matters.

R. Davies

"TC6.2. General Financial Matters"

Ramaphosa

General nature

Alert

~~Not needed~~

Moosa

In line w/ earlier recommendation that
CPO require provisions + whether needed.

NPF useful,
but annual budget superfluous as wd be.
procurement admin (needs 1 line
principle); guarantees - defer until TC3
ready.
Accountability unneeded & meaningless.

Ramaphosa

In detail thru provisions

(1) ✓

(2) ~~not~~

Alert

3 Suggested consti. sd provide for annual
budget.

- (2) footnote proposal
 NB agrees
 ANC: agrees 1st sentence of IC section 186.
- Alant
 Davies
- Oglin
 Reference imp. to annual budget.
 Agrees, reference to budget sd be included.
 Suggestion re. balanced budget. Contentious.
- Hogmyer
 Include provision on deficit spending, but
 matters of day to day policy, not constitution.
- ~~Jacobas~~
 Rana.
 Agrees reference to budget (1st sentence of
 proposal)
- Jacobzo
 Agrees. Balanced budget an ideal, cd. be
 added later.
- Davies
 Parties have different positions. Sub-comm discussions
 won't change this.
- Ramaphosa
 Reference to annual budget approved.
 How structure 1st sentence.
 Agree to include 51 & Sent. 2 not necessary, w
 restructure 1st so address shortcomings -
- Alant
 want
 annual budget
 contain 2 budgets expenditure & income..
- Rana
 Can you have budget just deals w/ budget?
- Alant
 Yes.

Eglin

No problem w/ 2 is stands

But TC reports wd be premature; wd need to say discussions going on about (a)(b)(c) or deletion of these matters. Wd need fn - not resolved.

Zbrahim

PAC: take 1st sentence; Concerns about Amended version:

" The Mini...

Parliament, reflecting the estimates of revenue + expenditure "

Eglin

Borrowings?

Davies

Budgets made out in varying categories, 'charge'. Don't do a long list. Let details of budget be matter of legislation.

Ramaphosa

PAC amendment close to what actual formulation sd be.

Let it be written it. Open for reconsideration.

de Lange:

Time of transition, need flexibility. Want accountability. Budget composed of many things.

If use PAC amendment, cd. budget include other things.

Stick w/ 1st sentence. & let Parliament regulate thru its own procedures.

Jacobz

True budget multidimensional, but come back to revenue expenditure. These 2 wd. cover a multitude of other things.

Ramaphosa

Agreed to adopt PTC amendment.

Eglin

DP might want it revisited at a later stage.

Ramaphosa

Can be revisited.

Eglin

What of other issues — additional formulation ← DP: let it be noted.

Hofmeyr

does anyone else support the inclusion of this detail. Need to take minor decision.

Eglin

Keep it in b/c asking for public comment & alternatives sd. be included.

Davies

Formulation summarised on p. 45
But need decision

Ramaphosa

Formulation not here. Sd those details be in constitution -

Mulder

fn. 5: let TC take cognisance of this & address it as outstanding issue.

Danes

Don't let it go back to TC, NP & DP both say sd. go in in 5-10 yrs.

Rama.

Agree w/ mulder except part about it going to

Ramaphosa

Tech Comm.

Let DP

Draft according to agreement, other matters can still be raised.

Eglin

Id. in fn.

Rama.

Cd. be included in footnote.

To be referred in finalised by sub-comm.
Cd be included or left aside.

Eglin

DP fuls not disposed of. Want it noted.

Rama

Suggested formulation not in front of us.

Parties need to suggest how problems can be addressed.

Eglin

Rama

- footnote will say the DP's point of view is as follows.
- DP cd. submit formulations to Sub-comm

Eglin

ARC didn't put in formulation; DP did. & will present formulation to sub-comm.

Only want footnote.

Ramaphosa

Agreed to. Formulation net. help.

Davies

DP sd give clarity on whether balanced budget sd be included now.

Alant

Other details given. No one else agrees.
What should go in the note.

Ramaphosa

Mr. Eyles wd undertake — to inform TC Secretariat what wd want to include.

Hofmeyr

Asked MC to propose what draft wd, look like. If 1,570 party cd add page or more of formulations...

Ramaphosa

Need flexibility. Dont chuck out other views.

To Sub-comm. for ~~final~~ resolution.

(3)

Alant

NP

In view of Morsa's comments, cd have shorter formulation
Capture

- 1) Indep. impartial
- 2) fairness
- 3) Improper interference
- 4) recording, transparency

de Lange

ANC

Let principle say procurement not arbitrarily but by law.
Detail leave to legislation.

Jacobz

Important is transparent

Agreed ✓

(4) ✓

(5) Deleted ✓

15 September 1975

Constitutional Committee

~~Agenda~~

Spring Jacobz

Can be handled in legisla.

Sykes, Cuddebo, Lewis

Closure

12h45.

h) Spring

Remuneration

12h45

Welcome last meeting CC in 75

Agenda

Agenda - 1st

La Tour

Requested that 8-9 be addressed first

These reports + drafts being prepared in subcommittee whole provincial system. Subcommittee has refused provincial was drafted to bilateral

Had those to create a whole package in the province

Rona

Proposal: 8-12 to be dealt w/ first w/ those issues being dealt w/ in bilateral in Sub Comm.

Wesley

15+11 only talked for today. Not scheduled for discussion. Proposal: Refer them to be discussed at Subcommittee level before create package.

Seife

to prop. to bracket these items for

15-September 1995

Constitutional Committee

Apologies

Sejane, Coakley, Herens
Erasmus, C. Murray,

h) Opening
Ramaphosa

~~9h45~~ 9h45

Welcome last meeting CC in '95.

AGENDA

Agenda: Adopted

du Toit

Requested that ^{revised agenda} 8-12 be addressed first

These reports + draft being prepared in Subcomm: whole provincial system. Subcomm has referred provincial ~~drafts~~ drafts to bilaterals.

Add these to create a whole package on the provinces

Lama

Proposal: 8-12 to be dealt w/ Hg w/ these issues being dealt w/ in bilaterals in SubComm.

Wessels

10 & 11 only tabled for today. Not scheduled for discussions. Proposed: Refer them to be discussed at Subcomm level before create package.

Selke

to prop. to bracket these items for

discussion

du Toit

Yes bracket them because they're interrelated.
& combine them w/ drafts now before Subcomm
for discussion.

Let drafters operate as a team b/t TC2 +
TC3 tech advisors to draft.

Ramaphosa

Proposed.

1) Item 8 Prov. Structures - have draft formulations.
deal w/ that in CC

Need finalisation w/ competencies

2) Senate - leave at level of bilaterals

3) Local gov't - needs to be dealt w/ w/
provincial. Let drafting commence
(only reports submitted). ^{Refer for drafting & discuss} when drafts available

4) Financial & Fiscal - take to bilaterals b/c
impacts on competencies

5) Inter gov't relations - take to bilaterals
b/c impacts on competencies

So only spend CC time on 1. Rest bilaterals, save
local gov't w/ wd go for drafting.

Gordhan

TC2 - 3 : Senate & Provincial Competencies:
need to talk to each other to see if have
some common ground.

Ramaphosa

Yes.
Otherwise proposal agreed to.

2) Minutes

Adopted.

3) Matters arising

None.

4. Security Services

Ramaphosa

ANC tabled doc. " ANC submissions, Chapt on Security Services"
Statement of Principal: in plain English

Chabane:

Para P* 2 of 8 ANC proposed to add P.5

after ... a sentence

" & subject to the authority of the democratically elected Parliament & duly constituted Executive"

Alant

Not needed. Implicit in existing text.

Girwala

Law cd assign it to some other structure. So id is it as accountable to parliament.

Ramaphosa

View of tech comm.

Green

Emphasis should be on constitutionalisation. If add the proposed sentence, make it majoritarianism. Constit. not Parlia. must regulate military.

Self

Green's pt. covered earlier on. If add formulation, necessarily implies parlia. oversight over security forces. In line w/ agreements raised.

Jagers

"In strict compliance w/ const." covers it. Doesn't advise addition.

Ramaphosa

No, is it do-able?

Hozenye

Is do-able. But want to spell out certain principles b/c of situation in past.

Ramaphosa

Asked for general view:

Asmal

Objects to "strict", but certain places need historic even if doesn't add anything. Is implicit in order esta. That thing must be interpreted in accordance w/ constit.

A. Ebrahim

Agree to "and subject ... Parliament", not rest.

de Lange

Problem: 3 sources: ^{need to add} ~~two~~, parliament. "subject to the auth of Parliament ..."

Ramaphosa

Opposition to addition.

Asant

remove "democratically elected" & "duly constituted" ^{wt} & agree

Ramaphosa

"subject to the auth. of Parlia. & the executive"

Agreed, w/ objection of ACOF:

Green

Parliament also subject to constit. In past parlia used security not to protect people, but a group's interest in parlia.

Ramaphosa

Yes, but leveled out by constitution.

Wissels

Issue of role of constit. clear. Play a role. But need this addition, does not comply - or help parlia. when

In past, no constitutional state, & parlia. gave power to exec.

As put here, constit. the launching pad for all of this,

Ramaphosa
Rampahosa

but legisla. to be guided by parliament.

Proceeded

1.1 " [the police service] "

Chabane

ANC: remove footnote, accept inclusion of "the police service"

Agreed

Ramaphosa

1.2 ✓

1.3

As in doc. tabled

Chabane

Add - "and its members"

"and train its members to act"

"and no member shall obey a manifestly illegal order"

Hofmeyr

Let it be stated to apply to all

Alant

Agreed - delete clause 18

Rana

1.4

Chabane

Proposed
Include: " or its members to perform their duties or functions so as "

Hofmeyr

Consolidates.

Rama.

Agreed

1 (5) ✓ remove footnote ✓

Ramaphosa 2

Chabane add 1(6) as in tabled doc.
Approp. mechanisms + procedures ... may be
esta.

Hojmeyer Present clause 20

Ramaphosa Why have out cond.s of service

Asmal

Green Compulsion in sec. 20 taken away. Why?
Why may + not shall?

Hojmeyer Not nec. for commit to say you have to have mechanisms
esta., commit. should allow them to be created.

Lama Accepted

Alant delete "appropriate" "mechanisms - procedures
for the accommodation of the needs of the security
forces" be dropped.

Agreed

Ramaphosa 2(1) agreed

Pandor 1(6) Need "specific" b/c addresses fact that dealing
w/ quite distinct services
Keep in "specific".

Alant/Ramaphosa Agreed

2(2) ✓

3

Hofmeyr

Concern: not be said in general there are Cabinet Ministers resp. for portfolios, ^{Parlia.} committees, but it stay here unless accommodated elsewhere.

Arent

If appt. minister, isn't it implicit he's accountable to parlia.

Ramaphosa.

All to stay as is?

Hofmeyr

for 3(1): remove, but must be covered somewhere else

3(2): leave in, but see to what extent covered by more general formulation.

Ramaphosa

leave as general, overseeing. details in legislation. Proposed delete.

Schreiner

Depends on how parlia. committees dealt w/ elsewhere, how tasked. If all functions covered elsewhere remove it. Perhaps just footnote.

Ramaphosa

Agreed - place ^{bold} in a fn.

Eglin

Delete 3(1)?

Ramaphosa.

No, deleting the bold.

Arenel

Proposed.

"shall be responsible for"

Ramaphosa

Agreed

4

Pahad

3(2)

Revisit - Don't take decision now, re words in brackets. Revisit to see if dealt w/ elsewhere.

- 4(1) ✓
- Alant for 14 - Consti. must say Pres. does in consultation w/ Cabinet.
- Asmal #
Depends on the nature of the exec. order created + what model used.
Scrap it.
- Ramaphosa Agreed
- 4(2) ✓
- 5 ✓
- Rama 6 footnote 15.
- Chabane Need formulations to cover gaps
- Asmal implicit when say defence force shall act in nonsectarian way, w/ it says here.
- Pandor We've seen at times proliferation of private militia. Let sec 224(3) be looked at, & see if ~~improve~~ can incorporate it in response to this concern.
- Asmal Agrees. Parameter needed.
- Ramaphosa Agreed Tech Comm. will take that forward.
- 7
- Chabane ANC's submission: reformulate whole of sec. 7 as proposed in tabled doc.

Chabane

Clarified: 7+9+11 combined - consolidated

Myer

No references there to provinces. Need more time to look at new proposals.

Ramaphosa

After tea break

Schreiner

Look holistically - 9(4) + 9(5) deal w/ provinces.

Ramaphosa

8

Hofmeyr

Similar to comments on DF to here: need general clauses. Need as fr. to make sure covered before deleted.

Ramaphosa

Agreed

9 ~~to be deleted~~ referred to Sub-Comm.

7/9 reflect over tea break.

10

Chabane

Proposed ANC -
9(6) reformulation covers 10

Let stand over - tea break.

Ramaphosa

11 — Delete

Chabane

7(2) dealt w/ 11. Delete 11

Agreed ✓

Ramaphosa

12

Chabane

ANC reformulation: delete 12-17 + replace w/
12(1) (2) (3) + 13 in tabled doc.

Alant

On face of it, okay, but need to unpack it.

Ramaphosa

Tea break

13 - 17

Proposed delete 18-20 so covered by
1(3)(4)(6) — as agreed.

Zglin

Referrals to Subcomm. —

Ramaphosa

Subcomm to meet later this pm., but superseded by
CC. Agreed to see how far cd. go in CC, +
complete sub-comm's work.

CC reclaiming it b/c subcomm meeting cancelled.
Chairpersons decided this.

[Tea break]

Ramaphosa

More time needed to consider reformulation: until after
lunch.

Zglin

fn 17: nat'l + provincial competencies. Matter can't
be dealt w/ in isolation from competencies.

Ramaphosa

Will be taken into account when consider after lunch.

Foreign Relations:

P. Marais

Spoke to doc., "TC1 Report on Block 8,"
in documentation.

41

Exp. p. 15: Analytical survey
Proposed new text pp. 16-19

Chabane

Queried phrase "contentious proposal". Sd say "proposal
that is in contentious"

Ripinga

Matter complex & touches on # of issues: defense, powers of
President. Let report be noted to give other TCs, esp.
TC5, chance to visit report & harmonise formulations.

Ramaphosa

All TCs finished. Let CC see how far can go to
reach agreement & i.d. disagreement.

Hofmeyr

Internat'l law & ratification of treaties: TC5 looked
at this, too. Needs harmonisation

TC4 eco. rights covenants - how does it fit into
internat'l law.

Heunis

He & Prof. Dugard liaised w/ TC5. TC5 put forward
Dugard's report & accepted. Heunis instructed to
liaise w/ Dugard & Dept. of For. Affairs Law
Advisors. T/9, they drafted this.

Ripinga

TC5 members - ANC haven't looked at this report
in detail w/ eye to reconciling provisions.

Hofmeyr.

TC5 holds this is technical matter, not poli.
But don't reach complete finality. Let TC5
have space to give input.

Let stand over, to let ~~TC5~~ members be taken forward by subcommittee.

6. Land Rights

B. Kgositsile

Spoke to Doc. entitled "TC Reports on Blacks 9-10"
TC did not discuss land formulations. After discussion, let Tech Experts assist w/ draft formulations.

NP forwarded reservations about report.

Issues:

land reform

Property clause 99% consensus sd have a property clause
disagreement about its nature, w/ touches on work of TC4.

Compensation: assumptions behind

Comerer

TC4 will consider property rights in early Oct. Sd property rights be debated now, or deferred until TC4 discussed prop. rights.

Ramaphosa

let Mpor Kgositsile table the report & then will return to the pt.

Kgositsile

Let house consider mechanism for parties to have motions to consider this basic issue.

Proposed go thru draft formulations.

Ramaphosa

Should matter of rights to property/land be deferred b/c impacts on that debate in TC4.

Comerer

Property rights - basic rights.

Kgositsile

Does impact on TC4's work on Bill of Rights. Report proposes provisions there, but also impacts on 6.3

Highly Marginal

Will the proposed Bill identify mechanisms to
protect those who can make significant
contributions.

Review

Formulation has - depend on views could be report.

Life to Subscribers or have subscribers set up to own
joint structure

Have need to look at report in conjunction with
the work that is there. In, in, in, in, in, in, in, in,
structure.

Review

Bill of rights to be discussed by Sub/para in 9/10
Don't look at property rights in isolation
Other views here - kind referring with them also
have a large range of views.

Review

NP work changes in report the details concerning
regard NP questions.

Review

Bill of Rights report to be discussed by Sub/para in 9/10
Don't. Are 6.3 had any intention of TC4
of regard to the matter?

Keynote

They're here

Guidance

No liaison w/ TC4 in its Tech Advice
Does formulation dependent on Bill of Rights.
Many provisions have not be auxiliary
rights on main classes.

Remission

That not be the bulk of the work done

Myokayaka Manzini

44
Kgositsile proposed CC identify mechanism to facilitate process where can reach agreements b/t parties.

Formulations here - depend on issues raised in report.

Refer to Subcomm or have Subcomm set up its own special structure

Agree need to look at report in conjunction w/ TC4. But can't wait til then. So, in meantime, set up structure.

Caner

Bill of Rights to be discussed by Subcomm on 9/10 Oct. Don't look at property rights in isolation. Other issues here: land reform + restitution. There have a large range of views.

NP wants changes in report b/c doesn't accurately reflect NP position.

Rama

Bill of Rights reports to be discussed by Sub/comm on 9/10 Oct. Has 6.3 had any interaction w/ TC4 w/ regard to this matter?

Kgositsile

They're here

Guldenhuys

No liaison w/ TC4 or its Tech Advisors. These formulations dependent on Bill of Rights. Many provisions here wd be ancillary rights on main clauses.

Ramaphosa

That wd be the bulk of the work done.

Klaasens

Agrees w/ Manzi's proposals. This report also includes proposals to change property clause w/ need to be considered. So need a joint process b/t TZ4 + TZ6.3.

Pataad

Overlaps + parallel work. Now need to harmonise work. TZ4 also needs to take TZ6.3's work into account.

How property clause wld impact on

let Technical experts combine to make 1 draft.

Kgositsile

Re NP's claim didn't have time to study report. Allowed 2 to 3 wks, & majority of parties endorsed report. Only NP recorded reservations.

Ram

- 1) Defer
- 2) Let Tech Comm ← 6.3 to interact w/ Tech Comm dealing w/ Bill of Rights. Go thru report jointly & if need be, prepare supplementary report. Sub comm on 9/10 Oct to deal w/ Property + Land Rights

7. Gender

Kgositsile

" TC 6.3 Report on Blocks 7-8 "

Accomodate

- ① CA sd take seriously work done in Beijing.
- ② Draft bill from Ad hoc comm ← Nat'l Ass. : merit in discussing them

Camerer

Way forward? Problem: is draft sufficient for constit? Seek guidance re. way forward.

Kgositsile

Delegation on its way back.
Need way of processing.
Draft bill available

Ramaphosa

Chabane

What mechanisms are there to ensure ^{report} ~~input~~ from Beijing.

Kgositsile

Sought help.

Ramaphosa

Don't postpone this so that can't go into draft constitution.
If accept her proposal + can still finalise formulations by mid-Nov, okay.

Camerer

Input useful in powers + sanctions - re. overseeing nat'l machinery + whether comm. sd. have a broader framework.

Wessels

Let process proceed. All parties to be assisted by delegates from Beijing.

Chabane

Were all parties represented at Beijing. How cd we integrate views of the variety of participants who went (e.g. - from Parlia, from NGOs)

Will get a nat'l report w/in ± wk, let submissions be made 9/10 Oct.

Also impacts on Bill of Rights.

Tech Comm cd. access that info. + present to CC.

Eglin

Wd fill in esp. v Powers + functions.
Let parties submit Draft formulations for 9/10 Oct.

Ramaphosa

Decide in principle

(1) Esta. of Comm.
where

Text:

fn. 1 leave as is: Name in dispute. Stand over
AEDP in opposition?

AEDP

Will come back

Smuts

DP: need for sunset clause

Ramaphosa

1(1) ✓

Camerer

1[2]

Ramaphosa

1[3] DP now says Parliament.

"accountable to Parlia..." ✓

"rept to Parlia ..."

Kgositse

2 i refer until consider rept from delegates
Beijing a Bill
fn to remain as is.

Camerer

Appt mechanisms:

Left over.

Kgositse

Agree

Eglin

fn into 2?

For early draft, let 2(i) & 2(ii) in fn. 7
to b/c Sec. 2 ?

Ramaphosa

a say in fn wd. be revisited.

Camerer

Power & functions

Omissions: to investigate

Ramaphosa

In fn.

add investigate to 2(ii) to read "powers to investigate, monitor"

fn. to say Beijing + the Bill.
Not final version.

Agreed.

Kgositsile

fn 8 relates to powers + functions.

Ramaphosa

Include in draft as

Camerer

Moves into area of nat'l machinery. Vague.
Perhaps set be another section.

Ramaphosa

Agree to uplift it, as provisional text; bring Beijing + bill into consideration to finalise.

Kgositsile

Yes. Is machinery. Uplift the footnote.
But maybe sep. section.

Camerer

Yes; not part of powers but nat'l structure.
Sh. be structure of Parliament.

Kgositsile

Let it be an indep. structure accountable to Parlia.

Smuts

Leave in fn. Contentious that wd. be in constitution at all. To be dealt w/ in legislation.

Asmal

Difference b/t creating a body + reporting to me.
(1) Do we want the structure in Constit. (2) Does it report

to Parliament

Agreed broadly :

Lifted to draft.

Finalised "when Beijing comes back"
Referred to Sub-Comm.

8) TC2: Provincial Structures

~~3A~~

Rabie

Some problem areas.

Ramaphosa

Go thru draft.

1(1) ✓

1(2) ✓

1(3) ✓

2(1) ✓

2(2) ✓

2(3) ✓

2(4) ✓

3. In abeyance

4(1) ✓

(2) ✓

Brink Steytler

Which govt body is resp. for determining

4(2)

NB

Eglin

DPreservations re. final words in 4(1)

Asmal

This formula excludes multi-member

Method of election must be determined nationally

5(1) note DP proposal 4 yrs. ✓

5(2) finalise Nat'l Assembly w/ impacts on this & then revisit

5(3) ✓

5(4) ✓

Asmal

[Sought mandate]

Manzini

What's use of this exercise?

Asmal

What happens when prov. exec. (legisla) not functioning? For whatever reason?

Tech Comm sd. be asked to look at this, & parties to make submissions to consider at next meeting.

To avert a potential constit. crisis.

RAsaphosa

Matter tabled, give thought to it, motivate properly w/ submission & possibly even alternative draft.

Asmal

Let ~~tech~~ ^{tech comm} experts to look into matter & if need be forward draft formulation.

Wessels (in chair)

6(1) → ✓

7(1) → ~~not~~

Chabare

6(2) : chief justice — resolved. Same solutions used here.

Agreed.

7. ✓

8. ✓

9. ✓

10. ✓

11.

Hofmeyr

flag "chief justice" in p. 7 as well.

Gordhan

12(2) "by law" which law?

Proposed "by nat'l law" ~~not~~

v. Breda

Salaries question resp. of remuneration comes, but how to process afterwards needs discussion.

Note

Wessels
Pahad

Wd. be noted for later discussion & bilaterals.
Will provinces agree on own salaries?

Chebare

Problem: queried role of Commission.

What determines rela. b/t nat'l + provin? Const. or Commission.

Wessels

Refer matter.

13 ✓

14 ✓

Amal

13(3) same pt. - substantive: "prescribed by law"

Raise query.

Wessels

Noted

14 ✓

Godhan:

15

Amal

At present, diff. to find out what provincial legis. exists. So, not safekeeping, but promulgation of provincial laws in nat'l govt gazette.

—> Such Comm. to draft provisions on Promulgation of Provincial Acts

Proposal.

Smuts

No enrolment here. Enrolment?

(16) ✓

(17) ✓

(18)

16(2) queried

(19) ✓

~~(20)~~

Styler

Flag question of # of times Premiers can hold §17(2)

Noted

20 ✓

21

Eglin

~~17(3)~~ ?

~~17-23~~

17-23

Gordhan:

33(3) queried 33(3) line 2 "subject to
Constitutional Principles in Schedule

to be considered to be debated at
future date

Asmal

16(2): refer to ~~commit~~ sub committee

Chabane

General pt to flag: re. provincial
boundaries. What if border disputes
continue.

How to deal w/ provincial boundaries in Const?
Flagged - refined for serious consideration.

Panda

P.14: 19 (2) - ~~19(2)~~ Problematic: what if
term ends abruptly. Needs reformulation.

Pahed

22(2) sd be consistent w/ what happens in Nat'l Assembly.

(3) Process Report.

Feb: consider possible amendment in assessment

Certification of tw adoption. CA cl ask for opinion re. compliance before from Consti. Court.

CA

Recommendations

T(1)

Amal

T(1): but substantive matters need clarification.

What is meant by timetable

2.2.2 "maximum participation" —

encounters w/ public? Want finely tuned negotiation process?

What happens b/t now & 15 Jan.

Cari agree to T(1) unless know what will happen,

& know that ManComm CC & Subcomm

won't be involved in public part. — energies must be put in negotiation mode.

Ramaphosa

At first, all agreed that public part. The central core of what we'd be doing. Need a balance b/t it & the need to negotiate.

Accepts this put in general & vague way.

But need to stick to time frame must not mean sacrifice of public part. Won't be similar to

Rama

one went thru before.

This doc wd allow Admins to work out proposal on what public part. sd. be embarked on so doesn't detail negotiations.

Wd be agreement in principle to empower Admin to start the planning.

Agreed

Kgositsile

Time Frames: queried

1) Overlaps b/t Blocks 2 + 3

2) p. 3: 4.4

3rd issue: approval. Sdnt CC do it?

Ramaphosa

Overlaps - to enable CA structures to consider submissions on a rolling basis, not wait until their deadline.

Re approval: proposal is Nat sub-comm wd. meet. That diff. to ng. CC sd give Sub-Comm mandate to publish ^{working} draft.

Wd be far harder to ng. for whole CC.

Which committee on 19/20 October?

Kgositsile

The CC sd. approve the working draft.

Ramaphosa

Inform CC members meeting 19/20 Oct.

Agreed.

Pandor

4.2 Document sent to public

should be unwieldy.

Why include all ^{main} contentious aspects - say make basic 15% support for contentious aspects to go in.

Noted

4. Ramaphosa

Report - Security Apparatus.

Alan

NP + ANC
Re. ANC Proposal Police:

Agree

Intelligence

Agree.

Recall DP: need to finalise provincial competencies
Keep that in. that refers to finalising prov. competencies

NP to reserve its position on this until such time as those competencies discussed -

Constitutional Committee

1. Opening

10h25

1. Introduction

Ramaphosa

1. Thanked everyone who contributed to draft, esp. staff, Directorate, Panel, Law Advisors & Tech. Experts. & all members of CC & Public who gave submissions.

2. Moment of silence for deceased Senator Mchunu.

2. Agenda

2.

Ramaphosa

Take report of Technical Task Team as read.

Eglin

Queried status of drafts, particularly where footnotes flagged incomplete texts or contentious issues.

Working Committee did not seem to take account of sub Comm & bilaterals

Ramaphosa

These would have been incorporated in sidebars.

Matters will come up in discussion.

Ebrahim

In "Outstanding Docs"

Eglin

Cross reference these documents:

Outstanding Issues & Tech. Report.

Lama.

Preamble: still to be drafted, when nearing completion of constit.

Chapter 1

de Lange

fund agreement re. title

to insert

need/issue of equality, human dignity.

Now skewed to the demo. mechanism.

Accept words in brackets + add human dignity.

Ramaphosa

Pandor

Clause 1: "we," delete comma.

Agreed

Marais

change

"universal franchise" to "universal adult suffrage"

Nglin

Agrees; detailed ref. to universal franchise:

CP 1 & 2 go further

human dignity

fund. rights

equality & human freedom

Add & decrease emphasis on how to achieve democracy.

Supporting more de Lange than Marais.

"Founded on"

Committed to achieving equality

Operating to achieve demo. gov't.

Less than committed to regular elections.

C. Mulders

Yes. "Stick to CP2 wording, respect for human rights" to "Univ. accept fund. rights, freedom + civil liberty"

v. d. Westhuizen

Similar: 1st clause will change once Preamble drawn up. This preliminary. But don't include everything there now. CP1 & 2 will be not elsewhere.

Fouie Schutte

Statement on "equality" sounds communist. Make it ~~to~~ equality of rights & opportunity

Carver

Agrees. Imp. to say word freedom in Pto clause.

Note in margin "freedom" mentioned in addition to equality.

Fouie

When formulate, people who do it in way doesn't clash w/ principles. Principles the guidelines.

Ramaphosa

Panel said wording here must be considered in relation to that w/ is in Preamble.

Asked Panel: Ct. limit it to first line & add rest later?

v. d. Westhuizen

^{this} Should clash. Wanted to make it look "majestic". Could delete rest.

Wissels

Disagrees. Sd have founding principles in majestic way.

Add on as suggested here. Incorporate members idea knowing its preliminary & will be amended when preamble done.

Ramaphosa

Kgositsile

Agrees w/ Ramaphosa
"with a
Add common South African citizenship"

Groot

This an
Opening Statement for publication

Add: "founded on the principles of Constitutional
demo as enshrined in this constitution."

Ramaphosa

de Lange, Eglar, Cameron to work w/ Experts over
tea break to finalise

2. Supremacy of Constitution

Agreed to

Chapter 2 + Memo Draft Form. on Citizenship +
Franchise

Agreed:
Incorporate latter (Memo)
Noting will be referred by the task team

Marais

Consider constitutionalising voting age.

Nzimande

Needs more consideration, Refer to later.

Nessels

Follow words of CP w/ says:
~~keep~~ "adult suffrage" as set out in the
CP "

CP8: "universal adult suffrage"

du Toit

What is an adult?

Pandor This doesn't reflect "National Identity". Should the Chapter Title be changed?

Lana Keep in mind, but deal with formal provisions.

Pandor but this repetitive b/c dealt with in Bill of Rights.

Ramaphosa Yes. Keep this in mind

du Toit Old 6(2): territory

Ramaphosa Basis later

Sizani Discussed voting age, ^{earlier} division 16 + 18. Voting age should be constitutionalised, & let question be put to public of 16 or 18?

Mossa ANC ~~against~~ prepared to think over as in 100 yrs. time not clear what appropriate age wd be.

Will think it over.

Mfuleni If don't consider exact age, use "adult suffrage" - et

de Lange no definition of "adult"; wd create enormous problems. If in wd be meaningless.

Ramaphosa No, do it in way to flag it for rewriting, & to alert public for comment.

Wd allow ANC to consider it at same time.

"adult suffrage" some where

the book refers "Larkin's letter". But
the chapter title is wrong?

John

Keep in mind, but that last formal provision

John

but the repetitive of that of a bill of rights

John

Chapter 2

Democracy

Old (22): founding

Old

basic law

Democracy

Democracy is not just a word, it is a way of life.
It is a way of life that is based on the principles of
liberty, justice, and equality. It is a way of life that
is based on the principles of the Bill of Rights.

Democracy

the spirit of the law is not just a word, it is a way of life.
It is a way of life that is based on the principles of
liberty, justice, and equality. It is a way of life that
is based on the principles of the Bill of Rights.

Democracy

the spirit of the law

of his words. That is, "the spirit of the law"

Democracy

the definition of "spirit" is not just a word, it is a way of life.
It is a way of life that is based on the principles of
liberty, justice, and equality. It is a way of life that
is based on the principles of the Bill of Rights.

Democracy

Tape 2A

It is not in vain to fight for liberty, it is
the path to a better future.

Democracy

It is also true to consider it as a way of life.

"the spirit of the law" is not just a word, it is a way of life.

Eglin

How in Working Draft do we indicate contentious issues or one that needs revisiting.

And specific note in Working Draft otherwise b/c reality

Ramaphosa

Put in brackets? Yes. ~~It's~~

Agreed: w/d be flagged by brackets -

National Terri.

du Toit

6 (2) of old Chapter 2 on p.4.

area included by the boundary of the districts described in Schedule X.

[Not provinces, but all districts]

Ramaphosa

Report to be tabled on this. And clear way to deal w/ this here.

Eglin

Problem: those areas outside: So, use —
Congress 14: "territory of provinces & such other terri.
w/ S.A. exercises sovereignty."

Sizem

Agrees w/ Eglin, except doesn't know why
mention provinces, need to include up to
limit of territorial waters.

Chabane

Agrees: define SA as country w/ provinces,
or ~~made up~~ provinces found in the
country.
Include islands & waters.

Zorahin

bound by C's to define provincial boundaries in context

Chabane

But he 2 aren't necessarily related

Ramaphosa

Draft to: make reference to various terms. bearing in mind there's a team of experts who will deal w/ this & report back to us.

ii Draft to take account too of what said by Zohir, Sizani + Chabane

Agreed

Symbols

Note multiparty committee dealing w/ this.

Marais

But subcommittee decided to accept flag.

Ramaphosa

Language: still needs agreement

Marais

Needs agreement on application of 11 lang.s in bilaterals.

Hofmeyr:

fill in gaps as agree.

Agreed: 1) must flag
2) Marais, & those dealing w/ matters of the

Statin

Hand by CP to begin previous documents in
with

Chlorine

but to be more necessary

Report to:
with reference to various items. Handing to
and then a team of experts who will
deal with the - report back to us.

Chlorine

ii Page 6 take account too of what said by
John, Eric - Chapman

John

Eric

The subject matter being of the

but outcome related to except for

Chlorine

Chlorine

large scale, still this agreement

These figures on application of 11 days
in bilateral

Chlorine

Chapter (3)

fill in gaps as given.

Chlorine

Chlorine (1) out of
Chlorine, has been at
Chlorine

Marais

"Application" still needs discussion

Chobane

Agrees, but want in draft agreement re. all official languages + have out issue of application.

Marais

Yes, so long as sidebar includes notice that the question of application still needs to be discussed.

Pando

Yes, but say it in way public understands, part. re. "application".

Ramaphosa

Yes, let say "usage".

Sizani

What does this mean

Marais

"Application":

"lang. of communication"

Agree to include agreement re. all lang. + the issue of application in sidebar.

Chobane

Provincial lang. of communication? Do applications need to be included?

Marais

NP holds it should be.

Bill of Rights "w/ Sidebar Note"

Schutte

"must" in clause 3 a weak word. Profers "ought to" or "shall"

Sutty

- ① Reinst title;
- ② Adds more elegance; as Preamble.
- ③ add "equality" to human dignity

Moran

Application will be discussed

Chabon

Agree, but want to keep agreement in Bill
offer language - have as many of application

Moran

Yes, so long as neither includes water but the
question of application still needs to be
discussed.

London

Yes, but say it in way public understands
"Application" -

London
Moran
Morgan

Yes, it says "usage"
but does the mean
"Application":
"Application"

Agree to include agreement with Bill
-
The issue of application is similar

Chabon

Proposed language of communication?
The application need to be included?

Moran

We hope it should be.

Bill of Rights "of Children Act"

Chapter 3

Chabon

"Must" in clause 3 a weak word
"The Profits" ought to be "shall"

Chabon

- ① must filter;
- ② must not be interpreted as blanket
- ③ all "rights" to human rights

Schutte

Re "must": need advice.

Pandor

Human dignity + equality, add "promotion of" these qualities.

v. d. Wierhuizen

"must": some of subcomm remarks included, others w/ were major are still being dealt w/ by Tech Experts.

"shall" w/ many meanings + b/ing archaic. So used instead must, is, & may.

Knight

"Shall" so undermined, means up to 5 or more things. "in the future", "must", "may".

New usages in Australia + Canada w/ use "must", "may", & some form of word "to be". Law to speak in present tense.

Schutte

"must", weaker than "shall" in terms of imperativeness. "Leave in for now"

~~de Feit~~

Pandor

"Right to improve" by Murray.

Zglin

5

v. Heerden

Does human dignity also include "freedom"?

Ch. 3

Ramaphosa:

It is agreed: Matter was agreed to in principle. Hitech - Comm will redraft.

Ch. 4

Smuts

"not derogating from Regenerativity" ... no agreement on use of word "including" word to be used

add "w/o derogating from the generality of the provision"

Sutty

Find affirmative action re. achieving equality in sub(2). Not achieved in refined draft

Tech Comm should find way to connect affirmative action phrase w/ equality

Ramaphosa

Yes, but Tech Comm. still working on these instructions.

Murray

If further submissions needed to be made on 4(2), what vehicles are available?

Cameron

NP views on overlooked "non derogation"; include "but not limited to..."
or go back to CP5

Needs serious consideration: NP views to be included in margin notes.

Mfulder

Sub Comm decisions not incorporated here, disallows serious consideration.

Leave Ch. 3 & return to it when have refined draft.

Agreed

Manzini

Yes, wait until get report from Tech Comm. when is it coming?

Ramaphosa

Possibly by Friday, possibly not.

Must agree before Working draft published to deal w/ Bill of Rights.
in 2 wks or so.

Hofmeyr

Agree + if parties have submissions, let them be put in writing.

Rana

Defer matter until next meeting in 2 or 3 wks.
Submissions to Experts Dev Administration.
Where party reservations not reflected in sidebar notes, parties can reinvite them to allow Admin to search thru notes to see what reservations were -

Ebrahim

Tech Comms will finish by next Fri. Let parties forward submissions by Monday at 17h00 to allow Experts to deal w/ it.

Ramaphosa

Will meet again before draft published & try to resolve bit of Right & other matters there

Cameron

NP draws attention to fact don't agree w/ large part of the draft

Chibane

How can parties comment not knowing what Tech Comm. doc. says. Rather, leave it until this doc. is done.

Ramaphosa

But Dev were aware where parties agree to make drafts or consider matter. Not completely new submissions -

Cameron

Some clauses needed tinkering, others like property clause needs major reworking as NP w/ a totally different position.

Fouie

W/draw the document.

Agree - if possible have submission, if that is not in writing.

Hogarty

Draft notes with next meeting - 2 or 3 days. Submission to expert panel Administrator.

Ross

Other good resources not sufficient in similar case. Points can remain but to allow Admin to react. Note to see what resources were.

Test cases will find by next Fri. 12.11.00. Further forward submission by Monday or Tuesday. To allow time to check it.

Flaherty

Will not agree before draft published. Under bit of delay - other matters there.

Rosenblum

We have attention to find but agree of large part of the draft.

Conner

We can further comment on basis of what test case. See. May. Admin, have to wait this case. 2.11.00.

Chloris

But we were also other points agree to make draft to consider notes. Not complete. was submission. It's on in similar case.

Rosenblum

Tea break

Conner

[T 000 3A] Chapter 4: (37)

W/turn the document.

Furner

Mossa

Property clause - NP agreed to further discuss the clause included. NP not innocent, here. ⁶⁸

Rodue

NP never agreed to this text.

Final doc. in Nov by no means a final negotiated doc...

Ramaphosa

Guided: can't withdraw the document. No one tied to these provisions. All still to be finalized; is a report of a Tech Comm.

Press should not misinterpret this or word stand out as facts.

To consider when meet next time:

Tech Comm to finalize

Parties to make submissions

Consider at next meeting.

Zylin

This is a Tech Comm presentation of the Working Draft - not a CC document until agreed to by CC.

Gordhan

Draft: 1/2: ~~some~~ agreement; 1/2: ~~some~~ refinement
Concerned by retractions.

Ramaphosa

No, not retractions. Referred: as presented by Tech Task team - on right; on left

Chapter 4

Zylin

(37)

~~3~~ This issue was flagged:

Ramaphosa:

Agreed to work until 20h00 or later.

Mason

Project done - It's agreed to follow the same as
class included. It's not unusual, here.

John

It's never agreed to the text.
First one is the only one known a first draft
has...

Paraphrase

Agreed: some of them the document. To be the
to the provision, the old to be finished; a
report of a good team.
has should not accept the it is not stated
as fact.

To consider when next meeting
Text can be finished
faster to make submission
Consider at next meeting.

John

This is a last case presentation of
the Working Party - not a CC document
agreed to by CC.

(38)

Caroline

Page: to: some agreement; to: some agreement
name of author.

Paraphrase

It's not obvious. Definitive: a project
it's not clear - a page; a page

Chapter 7

John

(37) It's not the same as page:

Paraphrase:

Agreed to not with 20150 or later.

Engel: Flag

Ramaphosa 2nd house still needs consideration

Sizini Not all parties

Rama General agreement, not full insert "and a 2nd house"

du Toit Bilateral still ongoing

Ramaphosa [and a second house]

[Agreed: insert

Murray make laws ... ^{insert} "for the Republic"

[Agreed] insert "for the rep."

v. Breda Need sidebar (38) => 38 (1) to add 38(2) after elections,

"after Parliament has been ~~formed~~ constituted,

parties must ^{designate} formally ~~indicate~~ ^{MPs & Senators as representatives of the various} their ~~seats~~ ^{of} ~~legislative~~ ^{legislative} districts.

footnote or alternate, otherwise each party would begin defining its own electoral system

Ramaphosa would be included in No; ~~is~~ general terms, not precise draft.

Pahad ~~Proposed~~ ^{Matters to be} indicated in sidebar, so that would be included as part of the issues to be considered; not to be entrenched in constitution

v. Breda

Omit assign matter to NP in sidebar, just to indicate this clause is still under consideration

Ramaphosa

"Find further discussion on electoral system"
C'd be said in sidebar.

[Agreed]

Ramaphosa

Why "women & men"

v. Breda

v. Heerden

Why not use neutral word like "person"

v. d. Westhuizen

This a poli. decision; not usual to define "person" in definition section

Eglin

How can you specify an areas where discrimination should be addressed & not others.

Kgositsile:

Had
1. M'giving that pt. lost: bring women into activities w/ people assumed involved men.

P. 9 of Tech Refinement Team: covers this pt. & the concern.

So disagrees w/ Eglin.

Leave "women & men"

[Agreed]

(38)

Last 2 lines

"System that results in general
in prop. up."

(39)

From 'fals' side in general proportional rep.

Don't believe sd tie self to specific kind of
proportional rep. in constit.

∴ such broader wording in earlier text.

resulting in

Pandor

Let it be consistently "women + men" throughout ⁷¹

Agreed

Hofmeyr

(1) Last 2 lines of 58 "system that results in ...
ANC view on p. 42 "voting role + in general
proportional representation": allows for
more flexibility for system used. Thought agreed.

Go back to ANC view in

Lylin

TL said "resulting in ..."

As phrased here, more general, as "results in"

So keep refinement.

Lane

^{Hofmeyr}
Covered by insertion that the Electoral System still
to be finalized?

Hofmeyr

But correct. wd not cover electoral system in
detail. Use of words.

Pabad

Subcomm came to term "results in" ...

Problem: how do we understand consequences of
"results in". Lylin + Hofmeyr disagree about this.

Need to see, ANC feels it needs to be revisited.

Lamaphosa

Inserted sidebar covers this if says:

"The matter of the electoral system wd be
attended to"

Hofmeyr's problem - the way it was refined.

v. Breda

If Hofmeyr refers to as originally formulated,
then refers to 28 Sept., "result" wasn't challenged

Page

17

the "concretely" "man - man" "transfer"

Figure

... of 28 "transfer the man in" ...
... of 28 "transfer the man in" ...
... of 28 "transfer the man in" ...

(1) Hypothesis

(39)(a)

... "transfer" ...
... "transfer" ...
... "transfer" ...

(2)(a)

... "transfer" ...
... "transfer" ...
... "transfer" ...

... "transfer" ...
... "transfer" ...
... "transfer" ...

... "transfer" ...
... "transfer" ...
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... "transfer" ...
... "transfer" ...

... "transfer" ...
... "transfer" ...
... "transfer" ...

Page

Page

Page

2 ^{meeting}
a ~~the~~ sub comm agreed to the wording.

Ramaphosa Cd ANC agree, electoral system + ANC view covered in sidebar.

Aggrey } Agreed

Heater v. Heerden does every "citizen" mean ^{some one who can vote} everyone

Rane. Au 2(a)

(39)(1) Agreed
39(2)(a)

~~Heater~~ ³
de Lange ~~that~~ may not

v. Heerden (2)(a) not a good enough explanation re (1). what about those not yet able to vote?

v. d. Wouhuizen Ori. "only citizens qualified to vote".
[Agreed]
Wd be redrafted to the positive

de Lange Concern w/ "may"

Andrew may → "cannot"

Knight "may" ^{not} prohibited
"cannot" impossible

NP voting age could be extended. y

o by ...

at the ...

April

... "origin" ...

Jan. 5(a)

(2)(a) April

39(2)(a)

change ...

v. ... (2)(a) ...

v. ... "only ..."

course of "may"

39(2)(b)

may → "course"

"may" prohibited ...

... could be ...

happens cd be members of Parliament -

Ramaphosa

Question of age had been flagged for revisiting, or "adult suffrage".

Eglin

eliminate phrase

- (1) "eligible to be"
- (2) "may not" ...

say disqualified on following grounds

Keep (1), delete "in terms of subsection (2)"
"unless disqualified on the following grounds:"

Hefner:

Say "anyone who is not entitled to vote" for
(2)(a)

Agreed

v. d. Westhuizen

Knight proposed

"Every citizen qualified to vote is eligible to be a member of the NA except (b) ..."

Agreed

Alant

(2)(b) : NP wants more general clause to apply to officials, so that no one has more than 1 position drawing a salary. apply to MPs, provincial legislature etc.

"Nobody in the public shall hold more than 1 office of profit..."

Pachad

This section deals w/ NA; Alant's proposal broader & wd need to be accommodated appropriately, at a general level.

74

So look at later.

Ramaphosa

Yes, the two matters are diff. Alant want clause of general application.

Alant

Stop at "Dep. Ministers".

du Toit:

Purpose of clause to disallow exec. ^{from} giving MPs extra pay.

Ramaphosa:

Hogweys

Re. Alant's proposal re. deletion & Pachad opposed. Leave formulation.

Alant

Traditional leaders: would they draw 2 salaries?

No.

Hogweys

No, unless parlia. changes it itself.

v. Harden

Why exclude Pres., dep Pres. + Ministers.

They have to be members of parlia.

Ziglin

Concept: MPs shd not be beholden to exec. Other office bearers - in Parliament. Agrees to existing clause.

Peter

The main aim of the report is to
not only to be accountable
general level.

2 (a)(c)

do not at last.

(d)

the two main in diff. that was done
general application.

2 (e)

Stop at "Op. 11/12"

(f)

paper of course to handle exc. to give the

2 (f) - (g)

2 (g)

for that proposal is better - label proposed
then possible.

2 (h)

ambitious label: could the label be released?

2 (i)

of
No, value given. change to int.

2 (j)

with exclusive dev. and dev. - 11/12

2 (k)

change to be made of given.

change: Mr. at out to label to exc.
the offer known - in business.
figure to assist change.

2 (l)

Agreed to 2(a)(b)

Include Senate

Agreed

2(a)(d) ✓

2(a)(e) ✓

2(a)(f)

Murray

Inconsistency b/t (f) + (g) : people imprisoned outside SA.

Memorandum circulated.

Madden

Queried: "takes effect": when does it come into operation? Relates to indemnity process + current applications for amnesty.

Murray

Not considered

Grove

change to: "takes effect" to "when this section takes effect/commences"

Agreed

Let Tech Comm. make the 2 sections (f) + (g) consistent.

Agreed.

(39)(3) ✓ Agreed

(39)(4) Delete : Agreed

(40) (2020)

(2020) 2 (a) 2

Figure 1

(a)

(2020)

(2020) (c)

(2020) (f)

[Tape 4A]

Transitions at $(p) = (q)$: probability
 (g) states (SA)
Measurement calculated

After
 Question: "this effect": when does it come up
 question? What is relevant process
 current application for energy.

After
 Error
 "When the action takes effect / measure"
 change to: "takes effect" to
 1/2 chance

Figure 2

The Test Case: what is 2 action (f) - (g)
 correct.

Figure 3

(30/3) Figure 3

(30/4) Defects: Figure 4

Murray

Reduction of provisions ^{old} 42(c) is covered by new 40(c). Sidebar note indicates the -

NP: 40(1)(c) is clause 39(2)(f) needed? Obviates it.

Hofmeyr

These are different: 1 a serious crime + disqualifies for 5 years; the other different.

40(1)(c) / Parliament ^{change to} National Assembly.

Agreed

40(2)(b)

v. Heerden

Remind CC re. floor crossing.

Pahad

is in sidebar.

Ramaphosa

Yes is noted in sidebar.

Eglin

"Vacancies in the NA..."

nothing says when filled; cd take inordinately long time, add "w/o delay" ~~in law~~

Agreed to.

40(1)(a)(b)(c) & 2

Adopted w/ amendments

(41) (17) (17)

Handwritten notes at the top of the page, including the number (42)(1) and some illegible text.

Handwritten notes in the upper middle section, including the number 19: 40(1)(c).

Handwritten notes in the middle section, including the phrase 'There are different: 1 a certain unit of...'

Handwritten notes in the middle section, including the number 40(1)(c) and some illegible text.

Handwritten notes in the middle section, including the word 'Agreed'.

40(1)(b)

Handwritten notes in the lower middle section, including the number 1. 40(1)(b) and some illegible text.

Handwritten notes in the lower middle section, including the number 2. 40(1)(b) and some illegible text.

Handwritten notes in the lower middle section, including the number 3. 40(1)(b) and some illegible text.

Handwritten notes in the lower middle section, including the number 4. 40(1)(b) and some illegible text.

Handwritten notes in the lower middle section, including the number 5. 40(1)(b) and some illegible text.

Handwritten notes in the lower middle section, including the number 6. 40(1)(b) and some illegible text.

40(1)(b) 2-5

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(41) Agreed to

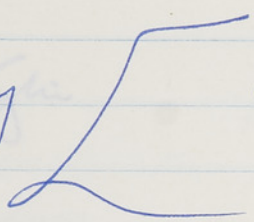
(42)(1) ✓ Agreed to

(42)(2) Agreed to

(42)(3)

Seat of Parliament to be deferred.

Murray



Referred to
Dept of Tech. Comm.
P. 15

Agreed to

Eglin

Presi. may only summons ppl to exhaord.,
ordering covered by rules

Sizani

When normal times, what happens. When is end of
term - day of elections, announcement of
elections, or when new parli. sworn in.

Ramaphosa

43(3)

du Toit

Time in 43(1) different from 43(3)
These need to be co-ordinated.

Alant

The day of the election is the day people vote.

de Lange

This is technical. Let 42(1) be linked to (43)
by Tech. Experts.
Matters have gap w/ no Parliament.

Wessels.

In such an event, the Electoral Act not cater for this. 78
Was agreed.

Hofmeyr

But constit. needs to cater for the crisis. What if Electoral Comm. declares election unfair or unfair.
Let Tech Comm. address this.

Jacobson

A question of principle; once give final power after elections, problems emerge. Better to live w/ period of exec. control in the gap.

Zylin

NA will serve for a period of 5 yrs. from the election: how do you define this practically -
And some elasticity here.

Pahad

Let experts look at this. And provision for elections
These must not ~~not~~ contradict the others.
If there is a problem, let experts look at it,
take into account consistency.

Agreed: Tech Experts redraft

Zylin

4(2) flag: matter of no confidence
add fn: relates to votes of
no confidence.

Ramaphosa

Could yes

de Lange

false distinction: exec better than Parliament
better at dealing w/ gap. Whatever, let
this be clearly reflected in constit.

(43) ✓

(44) ... the ...

We agree.

But ... the ...

44(1)

A question of principle; one ...

It will ... for a ...

It ... at the ...

Figure: ...

4(2) ...

add ...

(44)(2) - (5)

Paragraph ...

the ...

Nuka Snap elections not covered here. Is it covered anywhere else?

Ramaphosa Defer consideration until when discuss executive.

Andrew 44(1) "men & women", over the top: "a man or a woman"

Ramaphosa Proposed: a
Delete "man or woman" to be

Agreed

Andrews Deputy speaker shd be from a diff. party from the speaker to show its neutrality.

Randor Constit. shouldn't say this. Leave to wisdom of MPs.

Andrew "Our kind of society", & the historical lack of terms. culture says yes, but not make a break.

Khofameyr That proposal is inappropriate. Shd prescribe who should be elected.

Ruled:
Jane Leave the 4th Andrew's proposal out.

44(2) Agreed

44(3) Agreed

44(4) Agreed

44(5) Agreed

44(4) Unrevised

44(6) DEL

Defer

45(1)

45(2)

Agreed

Agreed to defer to a later date.

Agreed to defer to a later date.

Agreed to defer to a later date.

Agreed to defer to a later date.

Agreed to defer to a later date.

Agreed

Agreed

Agreed

Agreed

Andrew why is 44(4) necessary?

Ramaphosa It isn't necessary.

Ramaphosa 44(6) Not necessary. Agreed: delete.

Murray 45(1) Deal w/ when deal w/ votes of no-confidence.

Mfulden 45(2) Sh decisions, ^{be} taken when less than 1/2 of MPs are present?

v. d. Westhuizen: No in original

Mfulden What about resolutions ^{on conventions} w/ wd be binding?

Rama Add decisions on other issues wd be same as when take a Bill

Eghe Rabad Small decisions: not be merous to have more than 1/2 present. Parlia's critical role to pass legislation; need special majorities for amendment etc; but for routine matters don't need ^{special} majority.
Re conventions: wd have been agreed to beforehand.

v. Breda Agree w/ Rabad especially re. minor matters.

E.g. sitting hours

Need flexibility, esp. re orders of Whip.

Mfulden All agree ok w/ routine matters, but need to cover other imp. matters.

Wessels Let Mfulden think about it & make firm.

Admission (H) (A) (H) (A) necessary?

Admission

It is necessary.

Yes (A) H

Admission (H) (A) necessary. Answer: No.

Admission (H) (A)

Is it necessary for admission?

Admission

It is necessary for admission.

44(4)

Admission: No is required.

Admission

What are the conditions of admission?

Admission

All decisions on admission are made by the Board.

Admission

Admission: It is necessary for admission. The Board has the final say. Admission is granted to students who meet the requirements. The Board may also grant admission to students who do not meet the requirements.

Admission

Admission: It is necessary for admission.

Admission

All decisions on admission are made by the Board.

Admission

Admission: It is necessary for admission.

Agreed

(2) Agreed

(3) Agreed

Schutte

Referral of disputes from Legisla. to Constt. Court

v. d. Westhuizen

Wrote in consolidated draft which worked w/

Eglin

Thought was referred to TC5 who would forward it to right place.

Hofmeyr

Dealt w/ it in TC5, reached agreement. Removed b/c said wd be dealt w/ here. Positions were:

ANC: only referral after Parlia. completed matter to President refers

Opposition: Parlia. sd be able to refer during debate. Could occur when 20% agreed or all opposition.

Schutte

Remembers to issue.

Ramaphosa

Referred to bilateral. This hasn't occurred.

Note

Schutte

Deal of in bilateral.

Sizani

Decided now or when discuss powers of President.

Rama

This differs from powers of President.

Moss

When would bill go to Constt. Court: ⁸² July is some issue of Presidential Power.
Legislative process should be allowed to cont. before referred.

Marais

Issues: ① Presidential referral.

② Referral by speaker at request of certain 20 of MPs

Lamaphosa

Issues are of same category but different.
Proposed

Flag issue

Bilateral

Each task team to deal w/ matter.

Chabane

What wd task team do?

Lamaphosa

Flag the matter

Pandor

Get idea of substance being proposed - to help focus bilaterals.

Andrew

Substance:

If a certain proportion of MPs believe Bill in conflict w/ Constt. requirements, sd, request speaker refers to Constt. Court.

Pahad

~~But~~

Also don't want to create situation where minority of parties wd subvert the legislative process.

Anyone wd be able to take a Bill to the Constt. Court in terms of Constitution after a Bill passed.

11/10

When will bill go to Court. Cont: Just a
name of individual form.
Legislative process should be allowed to
begin.

TAPE 5A

11/10 : 45

11/10

② figure of system in report
of volume 2 of 11/10

Legislative process should be allowed to
begin. Just a name of individual form.
When will bill go to Court. Cont: Just a
name of individual form.

44(5) Amend

What not that time do?

46 ✓

Legislative process should be allowed to
begin. Just a name of individual form.

47

At time of submission bill proposed -
help from witnesses.

11/10

of a certain proposal of Mr. Blair Bill
in context of Court. requirements as
report speaker refer to Court. Cont.

11/10 : 48

48

After we better to the bill to the Court.

Legislative process should be allowed to
begin. Just a name of individual form.

Ramaphosa Proposed/Ruled -
⇒ Bilaterals
⇒ Flag

Fourie Need bilaterals to convince each other.

Ranchod 44(5) is that vote of no confidence structure? $\frac{1}{2} + 1$?

Hofmeyr

Ramaphosa

Pahad Simple majority election & removal

Agreed!

(46) ✓

(47)

de Lange All aspects re. committees in current IC seems to have been left out. Sd. be included.

Murray Only worked from consolidated draft.

de Lange Sec. 58 (its principles) to be included.

Agreed:
Ramaphosa Task team to look at inclusion.

~~58~~ Agreed to
Rabie

"Remuneration" 62-70 draft
Alant 4 clauses in constit. about

Alant

Salaries: Nat'l Exec; Nat'l Assembly.

84

v-d. Westhuizen

Want Commission on remuneration returned

Remove "of members"

If 1 clause for remuneration, where?

Can look at consistency.

Lamagosa

Leave to task to see how they'd make it consistent

Love

Did Alant suggest a Comm. on remuneration in the Conchit?

Alant

We need not give all details in IC, just principles that an indep. body under a judge give recommendations.

Love

Judges to be canvassed. Need for flexibility, will occur when have to Nat'l legislation.

No reference to prov. legislation —

Mfutingi

That occurs later.

As clause read, diff. b/w NA, Senate & Pres. Fixing of remuneration for w/in framework of Nat'l Legislation, executive fixes salary, not Parlia, by resolution.

Rana

Just task team look at Pres + consistency.

Andrew

Impractical not to do it outside nat'l legislation

Part

release: Nat's Exec; Nat's Assembly

that Commission in communication returned

if I check for communication, what?
"Members" Governor

Can look at meeting.

can't look at meeting
have to look at the Nat's Exec

49(1)

Did that suggest a Comm. in communication
in the Court?

We need you all details to IT, for principle
but on way, look under a judge you
recommendation

off occurs when have to Nat's Assembly
Type to be considered. Type for feasibility

No reference to Nat's Assembly

49(2) ✓

That occurs later

49(3) ✓

finding of communication
to be done now, off. Nat's Exec
of a fragment of Nat's Assembly, executive
final ruling, not after, in meeting

Query w/ Thomas

Proposed not to do it until with legislation

Andrew

Standardised clauses along lines of current clause 48⁸⁵.

Kyriakos

Why sd prov. legislatures be dealt w/ here.

Love

Isnt covered, but should be.

Chelane

Dealing w/ NA; other structures like Exec, Prov. + local gov't, could deal w/ them here.

Agreed: task team to look at.

Ramaphosa

Noted footnote

Murray

49(1) side note: redundant 1st 5 lines but last 3 lines: "emp: "the sentence ..."
[This freedom ... courts] duplicates.

Delete

Agreed

49(2) Agreed

49(3) Agreed

v. Breda

49(1):

Freedom of speech a basic right different from Freedom of speech in parliament
cant be sued; honour + freedom

So keep in words from the square brackets

History

Geography

Law

Science

Language

Arts

v. Books

(50) ✓

(51) ✓

(52) ✓

(53) ✓

History

History

History

Revisit: Come back

History

Freedom of speech a basic right afforded
from Freedom of speech in parliament
can be used to discuss & discuss

the key in words for the exam booklet

Ranshod

But this covered in 49(2)

(50)

(51)

(52)

Agreed to

Hofmeyr:

(53)

Re (52) fill in some gaps

Andrew

Provisions in IC

decided on

United/Senate can't decide these

Hofmeyr

Accepts that, but need to improve this before circulate to public. put in options.

Ramaphosa Flag for revisiting

53(2)

Mfulden

"If The President is concerned" → if the President has reservations

Agreed

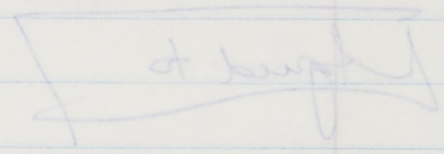
V. Heerden (53(2)(c) Clarity needed.

In certain circumstances President refers, in other Speakers.

Paradox

But this is not in (1)

- (80) (75)
- (81) (75)
- (82) (75)



(83) (82) fill in empty

Hypocrite

Provisions in IC

decided on
What/ how can't decide that

Adversity

steep that, but not to improve the
to improve conditions
but in options.

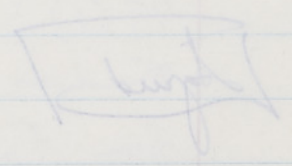
Hypocrite

Paraphrase for revision

(85)

"If the teacher is serious" →
If the teacher is serious

M. J. H.



v. d. Herten (85) (85) Clap

Check in pages

Quay

Murray

If Parlia. not prepared to respond to President reservations on bill, wd. refer to Speaker. Seemed illogical.

This revision gives Pres. a second chance, & was provided in coherent way.

Pandor

53(1) " , w/o delay, " awkward, move to after: sign every bill...

King

wd apply to Constructed as "assent" & "sign" ~~not occur w/o delay.~~

Pandor

Soln: "assent & sign w/o delay"

Pahad

Grammatical not substantial.

Andrew

But President not given option not to assent, so delete assent.

Sury

Assent: agree to;
Soln

" Every bill passed by Parlia. must be assented to & signed by the Pres. w/o delay "

Rabie

Assent must stay in. If Pres. doesn't assent, sends back to Parlia.

Keep assent in

Ramaphosa:

Agreed: Leave in as was

" Assent to & sign w/o delay ... "

Sizani

Quered system for (c)

Rane

Bill agreed to by exec., introduced; amended in discussion in Parliament; President feel not happy w/ it.

Sizani

agreed,
But don't refer in content, but constitutionality.

Pahad

Need (c) b/c if have situation where Pres. can regard constitutionality & Parlia. disagree - need system to deal w/ it.

Speaker obliged to refer Bill back to President, for signature or referral to Const. Court.

53(d) Agreed to

53(e)

(53) (3)

Agreed to

de Lange

(b) President must sign the Bill: concerned that President might find a 2nd problem. If must sign can't be able to refer

Murray

To what extent sd President have opportunity to find new problems & delay passage.

de Lange

Agree is a political issue. Look at again.

Andrews

53(3)

No reference to ^{when} promulgating w/o delay.

Need to insert —

Agreed
Ramaphosa Addⁿ w/o delay "

General opinion of (C)

Review

Bill again to be passed; introduction; amendments in discussion in Parliament; business for next week.

Review

Bill again to be passed; introduction; amendments in discussion in Parliament; business for next week.

Review

Bill (C) No. 10 of last session when passed. It is a bill for the purpose of amending the law relating to the... for signature in reference to... Bill back to... need action to be... rights... -

Review

(53) August 10

(53) 10/10

(54)

(53) (3)

President must sign the bill: however the President might find a... problem. If must sign... to be... refer

(b) on large

to what extent... President has... A few new problems... delay...

Review

There is a... Bill at...

Review

President... to... of... Bill to...

Review

President... "the... delay"

Ramaphosa

"The Pres. must assent to every Bill passed by Parli. by signing it w/o delay"

89

Pandor

No.
Assenting & signing 2 diff. activities.
Let clause be formulated so deals w/
adverbial phrase well.

du Toit

Can't draft in Committee like Pres. Can comment

Rane

53 Agreed to w/ these changes.

Chabane

Differences b/t (1) & (2); link w/ "unless it's provided for in (2)";

Murray

Is already adequately catered for. Assume wd be read together.

(54)

Lockey

Aspects of heading not in clause: public access.

Eglin

Used to be another provision w/ was deleted

Rana

Delete "public access"

Weyman
Labad

Constitutional Court

Ramaphosa

Leave as is; supposed to talk to both courts.
Is a practical matter: to talk to registrars of both courts.

Moosa

But CC can suggest Constit. Court.

Remedies

It has not been a very long time
by law. by saying it was illegal.

Power

As for
As to the...
As to the...
As to the...

the Tax

Can draft in Committee for the...
Can draft in Committee for the...

Case

83 Agree to w/ these changes.

Chapters

DIFFERENCE BT (1) (2) ; but w/
" (1) (2) ; but w/
" (1) (2) ; but w/

Query -

44(1)

Query

It is a very important case for...
It is a very important case for...
It is a very important case for...

(2) (1)

Lacked

Aspects of...
Aspects of...
Aspects of...

Logic

That to be another provision of...
That to be another provision of...
That to be another provision of...

Law

But "public access"

Chapter

Chapter...

Remedies

It is a practical matter...
It is a practical matter...
It is a practical matter...

Notes

But CC can suggest...
But CC can suggest...
But CC can suggest...

Need to talk to Registrars + hear what they have to say ⁹⁰

Aclermann

Also raise availability of facilities

du Toit

Legal pt here: conclusio evidence of original text of draft. Need to consider who wd check act's constitutionality, w/ wd rest of constitutional court.

— Tea —

Rama

Add
Given need to rule on constitutionality ...

Re 44(1)

Murray

Queried proportion of vote for election + removal.

Cheban

Wd look at this when look at the various majorities needed

Murray

For clarity's sake, deal w/ it now.

Ranchod

Wd be unusual to allow $\frac{1}{2}$ majority to remove chair of quorum only $\frac{1}{3}$.

If removal of minister required at least $\frac{1}{2}$ of all members

Andrew

We shouldn't deal w/ this on ad hoc basis; majority + quorum need to be considered when declare war, or fill vacancy for President.

What decisions other than Bill should require higher quorums?

Wissels

Let matter stand; if anyone wants to submit amended

Let's talk to Lagarias + see what happens
say

the main availability of facilities

Admission

level of law: conclusion - volume of writing
let's see. Let's consider the other side's
contribution, of the rest of the world.

in the

the
Given that it is a...
The (at)

from

general population of not for...
440

Money

the rest of the other part of the...
the

Chosen

For...
55 (1)

55 (1)

It is...
of...
of...
members

Paraded

It...
of...
of...

Admission

55 (2)

What...
persons?

It...
of...

Members

text can do so at next session.

Pohod

Need to have overall look at decision making in Parliament & then parties can make proposals.

To make overview; consistency; comprehensive approach

Chabane

Not a difficult matter. Dealing w/ issues of no confidence. Use the same majority, or should different majorities be used?

Lanaphosa

Ask Law Advisors to draft something we can look at & parties can make submissions

Lana

Why Diluting "Public Access" in title b/c have access thru rights of info in Bill of Rights.

v. Heerden

Queried changed text to "other members" Del.

Rana

"President & the Cabinet"

Marais

Insert "the" President & the other members of the Cabinet"

Agreed to

Erasmus

Pres. has to be dealt w/ in various capacities

Eglin

55(7): Provincial level, local govt also exercise power. Adding this create problems.

Erasmus

Instructed to look at such a clause: general empowerment; prerogatives fall

away if felt clearly implied in (1).

Andrew

Agrees w/ Eghin. 55(2). Not only the Pres'd exec. but many structures need to give effect to const't.

Sizani

What are implications/when powers are vested in President vs. ^{when invested} in ^{national} exec. authority.
 & substantial differences

Erasmus

CP4 + 6 guiding principles; President head of exec + head of state, so deal w/ as do, + instruction.

Sizani

Does she have anything to do w/ appt. + dismissal of Ministers

Erasmus

No, that dealt w/ later.

Mhosa

55(2) Cannot be read that exec. wd do what Public Protector, or local authority wd do.

Is simply general empowerment clause.

Andrew

But doesn't it duplicate 55(1).

Ramey

Ask Tech Teams to address this.

v d West

There is a question as to whether is needed? Is safety net for things forgotten.

Nchodo

To deal w/ problems of prerogatives.

① To ensure exec. doesn't have extra-constit. source of power, added this, so couldn't say have inherent power.

away of the day in 1910

James of Ohio (25). Not only the
that's more, but many others were
for effort to work.

Adrian

What an interesting/when given in words
is described as... in 1910. continuing

Biggie

CPT - a guiding principle
President Bush of Iraq + had of other
deal of so do, + structure.

Erasmus

Don't be too quick to do it off
harmony of the two

Sierra

No, that's all of later.

Erasmus

(25) Cannot be used that much. not do
what public pattern, or how history
not do.

Adrian

is simply general empowerment classes.

55(2)

Leave

But change it (suppose 25)

Flag

At Tech Team to address the.

James

There's a question as to whether it's really
is safe out for long together.

What

To deal of problems of generalization.
To ensure you, especially your organization.

Wabato

source of power, what the... could be
for the... of the...

② To ensure auxiliary powers covered.

Pahad

Re 55(1): Sizani's concern needs to be considered. Flag his issue - to clarify what mean & need time to think about it.

55(2) Either have no empower clause; but relates to Nat'l Exec., & need to cover concerns raised by Tech Experts.

Eglin

No substantive argument, except wasn't in earlier drafts.

in accordance w/ Constit in 55(1) covers 55(2).

But if need 55(2) wd need an 112(2) as well. Sd. be consistently added everywhere.

Ripinga

55(1) & (2): does the reference to constit. refer to the body of law passed by the legislation.

Ramaphosa

Need to see whether to include re. provinces.

Leave it there, but flag it:

Let people reflect on it & return to it later.

de Lange

55(1):

in draft
Sec 75 of IC; here/ exec. auth Pres + Cabinet. Present constit differs.

Erasmus

CP 6: says sep. of power clause.

Changed formulation: more comprehensive view of form of exec. gov't.

Earlier models given + roles of

President discussed. Here exec. extended to include ⁹⁴ Cabinet.

de Lange

Is this still an executive president?

Nchado

If look at IC, still qualified exec auth of Pres., who acts in consultation.

Instructed to look at President in way that achieved both.

v. d. Westhuizen

Was in consolidated draft.

Still is an exec. president.

Ramaphosa

^{raised by de Lange} New issue - attend to this later. Otherwise leave in.

Pahad

Said earlier flag it -

Sizani's & de Lange's concerns

du Toit

New draft not an exec pres, b/c State Presi., another org than Cabinet,

Nessels

Distinction b/t exec & ceremonial president where latter w/o powers, & exec pres. can appt & dismiss ministers.

Ramaphosa

Doesn't agree w/ du Toit

Schutte

56(2) says Pres. head of nat'l exec. But 56(1) also makes him king

Ramaphosa

Leave for now to see if SC will begin to assist.

