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TC3/17

CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 3

**RELATIONSHIP BETWEEN
LEVELS OF GOVERNMENT**

Monday 27 March 1995

Room E249

(09H00)

DOCUMENTATION

(Minutes of the meeting held on 13/3/95)

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CONSTITUTIONAL ASSEMBLY

MEETING OF THEME COMMITTEE 3

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

Date : **MONDAY 27 MARCH 1995**

Time : **09H00 - 12H00**

Venue : **E249**

AGENDA

1. Opening
2. Minutes of the meeting/workshop held on 13 March 1995
3. Matters arising
4. Workshop
5. General
6. Closure

HASSEN EBRAHIM
EXECUTIVE DIRECTOR
CONSTITUTIONAL ASSEMBLY

Enquiries: Mbasa Mxenge Room 9-09 Regis House (Tel 403 2108)
Sandra Haydon Room 9-08 Regis House (Tel 403 2275)

CONSTITUTIONAL ASSEMBLY
MINUTES OF THE MEETING OF
THEME COMMITTEE 3
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT
MONDAY 13 MARCH 1995 (AT 09H00)

PRESENT
DC DU TOIT (CHAIRPERSON)

Albertyn JT (Alt)*
Andrew KM
Bhabha M
Blaas A
Carrim YI
Chuenyane LD (Alt)
Coetzee MP
de Lille P
Dingani ZA (Alt)
Gordhan PJ
Gxowa NB (Alt)
Koornhof GW
Kota ZA
Lamani NE (Alt)
Loots HG (Alt)
Malebo SM (Alt)

Manie MS
Marais G (Alt)
Maree JW
Mashamba HJ
Mayimele HW (Alt)
Modisenyane LJ
Nzimande BM (Alt)
Peires JB (Alt) *RABINOWITZ*
Richards I (Alt)
Seperepere MS
Shandu EEN
Smith PF
Sulliman MA (Alt)
Verwoerd M
Vilakazi MI

(* denotes alternate standing in for full member)

Technical Experts *M*
Prof D Basson, Prof D Davis and Prof F Venter

Apologies *ON KHOBE (HOSPITAL) RETN 22/4*
CW Eglin, PJ Groenewald, TJ King, NI Mabude, *R Rabinowitz* and PW Saaiman
PRESENT

Absent
PC Cronje, AF Mahlalela, NN Mapisa-Nqakula and RS Suttner

In Attendance
Sandra Haydon and Mbaso Mxenge

1. OPENING

- 1.1 Mr Du Toit opened the meeting at 18h10.
- 1.2 The agenda was adopted.

2. MINUTES

The minutes of the meeting held on Monday 6 March 1995 were adopted with the following amendments:

- i. Mr Saaiman was present but omitted to sign the register;
- ii. **Absent** to read - M Bhabha, PJ Groenewald, ON Khobe, ZA Kota, MS Manie and NN Mapisa-Nqakula; and
- iii. Para 8.1 to read ".... article by Leonardy...."

3. WORKSHOP

Prof Davis spoke to his document (refer Memorandum on Federalism) and Prof Basson on Concurrency (document to be forwarded for circulation) with input from Prof Venter.

Note: On 27 March 1995 Prof Venter will address the Theme Committee on the interpretation of the Constitutional Principles relevant to Theme Committee 3.

4. GENERAL

4.1 REPORT FROM THE CORE GROUP

4.1.1 Parties were asked to submit to the Secretariat by Tuesday 14 March 1995 any additional names of individuals, organisations or institutions whom the Secretariat should invite to make submissions relating to Phase 1 of Heading 2.

4.1.2 The meeting agreed that three letters should be sent to the Registrar or Vice Chancellor of each university for distribution to interested departments or persons within the universities inviting submissions on Phase 1 of Heading 2.

4.2 WORKSHOP - FREE STATE MUNICIPAL ASSOCIATION

The Administration advised that the CA will pay for two members from Theme Committee 3 to attend the 'Conference and Workshop : Local Government Beyond 2000' to be held in Bloemfontein on 3, 4 and 5 April 1995. The meeting mandated the Core Group arrange for two members of the Theme Committee to attend.

4.3 PENGUIN FILMS

The proposal from Penguin Films of programmes relating to the work of the Theme Committees was tabled again for discussion following

concerns expressed regarding the content of the programmes. Prof Davis advised that the sponsor Liberty Life, is unhappy with the proposed 22h00 time slot and is negotiating with CCV for an earlier viewing time. The Secretariat was requested to obtain further information.

4.4 REVIEW OF CONSTITUTIONAL PUBLIC MEETINGS

The members who attended CPM's on 11 & 12 March were asked to submit written reports to the Core Group.

4.5 WEEKLY MEDIA BRIEFING

The Core Group was mandated to discuss the issue of two members attending the weekly press briefings on the Constitutional making process.

5. CLOSURE

The meeting closed at 12h30.

CONSTITUTIONAL ASSEMBLY

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PO Box 15
CAPE TOWN 8000
REPUBLIC OF SOUTH AFRICA

REF No:
10 March 1995

Mr T Sexwale
The Premier of Gauteng
P O Box 62302
MARSHALLTOWN
2107

Dear Mr Sexwale

RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

Theme Committee 3 of the Constitutional Assembly is charged with reporting on the above topic which obviously is of great interest to the provinces.

We are now addressing the subjects set out in Annexure A and would welcome a submission from your province in this regard, particularly arising from practical experiences since 27 April 1994.

We would be grateful if written submissions were received sent by 7 April 1995. We would hope that a delegation from your province would be willing to give evidence and participate in discussions with our Theme Committee at a later date to be mutually agreed upon.

Yours sincerely

KM ANDREW MP
Co-Chairperson
Theme Committee 3

H Ebrahim
Executive Director
Constitutional Assembly

Enquiries: Mbasa Mxenge Regis House Room 9-09 (tel 403 2108)
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CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE THREE
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

FRAMEWORK FOR SUBMISSIONS
ON NATIONAL AND PROVINCIAL LEGISLATIVE AND EXECUTIVE
COMPETENCIES [Phase 1]

ALLOCATION OF POWERS

(covering inter alia the answers to):

1. Should the Constitution list only the competencies of government at national level? If so, which?
2. Should the Constitution list only the competencies of government at provincial level? If so, which?
3. Should the Constitution list both national and provincial competencies? If so, which?

**RELATIONSHIP BETWEEN NATIONAL AND PROVINCIAL GOVERNMENTS IN
RELATION TO THEIR POWERS**

(covering inter alia the answers to):

1. Should *exclusive* and *concurrent* powers be listed expressly for each level of government? If so, which?
2. Should the Constitution expressly provide for *overriding* powers for the national level of government in certain prescribed instances? If so, which?
3. What are the mechanisms which should be provided for in the Constitution to regulate the relationship between national and provincial government?
4. Should the competencies of the provinces be fixed by the Constitution, or should the Constitution allow for an evolutionary process?
5. Should the field of (potential) activity of provincial authorities as contained in the 1993 Constitution be amended? If so, how?

LOCAL GOVERNMENT

(covering inter alia the answers to):

1. How, in broad terms, should the Constitution deal with local government as a consideration in the distribution of competencies between the national and provincial levels of government?

CONSTITUTIONAL ASSEMBLY

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PO Box 15
CAPE TOWN 8000
REPUBLIC OF SOUTH AFRICA

REF NO:

13 March 1995

MEMORANDUM

To all Theme Committees

The period from 18 April to 21 April immediately after the Easter recess has been set aside for CA business only. Theme Committees are requested to please make urgent recommendations as to how these four days can be best utilised for CA work. It would be the recommendation of the Administration that Theme Committees meet as follows :

Tuesday 18 April

TC1,2 and 3	09h00 - 13h00
TC4,5 and 6	14h00 - 18h00

Wednesday 19 April

TC4,5 and 6	09h00 - 13h00
TC1,2 and 3	14h00 - 18h00

Thursday 20 April

Management Committee	08h00 - 10h00
Party Caucuses	10h30 - 13h00
TC 4,5 and 6	14h00 - 18h00

Friday 21 April

TC1, 2 and 3	09h00 - 13h00
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HASSEN EBRAHIM
EXECUTIVE DIRECTOR
