

CONSTITUTIONAL ASSEMBLY

Theme Committee 1 Meeting

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CHAIRPERSON: Ladies and Gentleman, could we be called to order? Thank you very much. Could we start with our meeting? You are welcome to the meeting. Any apologies, item 2.

UNKNOWN: Chairperson, apologies for Dr van Rensburg and Mr M Verster.

CHAIRPERSON: Are the secretaries noting that?

MS ROUTLEDGE: Yes. 10

UNKNOWN: Apologies to Mr Vilakazi and (inaudible) ... and Mr Niehaus has got a crisis in Pollsmoore.

CHAIRPERSON: Thank you very much.

UNKNOWN: Mr Booie as well.

CHAIRPERSON: Thank you, any other apology? Right. Item 3, adoption of previous minutes, pages 3 to 7. Any problem with the 20 minutes? Any proposal for adoption? Thank you, I seconder. Thank you very much, the minutes are adopted

as true record.

Item 4, matters arising, that is matters not reflected on the agenda, which arise from the minutes, I see by the rise of hands. In the absence of any, thank you very much, we go to the next item.

That is, Item 5. Discussion of draft report of block 5, that is economy. You are being referred to the extra documentation, marked a to 7. The report is available, I 10
hope, the technical experts will have a first word on that and lead us on the matter. The technical committee.

MR SCHOEMAN: Can I perhaps ask a question please?

CHAIRPERSON: Ja, you can ask a question.

MR SCHOEMAN: Mr Chairman, I would like to ask on page 8 there was a newspaper clipping, apparently it is a newspaper report, what is the purpose of that? 20

CHAIRPERSON: Do you know which one?

CHAIRPERSON:

The administration tells me it was purely for information and nothing more than that, so I'm told. I don't know anything about it.

UNKNOWN:

Could I ask the administration to, to give a balanced information and, I think this is a one-sided view.

I asked you a question, what does one-sided mean?

DR SCHOEMAN:

I think it gives a specific point of view on the secular or non-secular estate and I think it isn't, it was written from a certain prospective and it is isn't balanced, and I do think it is, it is not the right thing to have a one-sided report like this.

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CHAIRPERSON:

Yes, in any event I don't think it, well I don't think it was even necessary to have it herein, this is not a matter for discussion, not even in the agenda, it was not even on the agenda on that day. As far as I am concerned it was just an unnecessary newspaper report. Those who want to, perhaps they were making for those who did not buy newspapers on that day, to enjoy the opportunity of looking at the

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newspaper without buying it.

But at any rate, it is not on the agenda. Let's go then to the next item. As I say this is not on the agenda, it is not even a matter for discussion and I just understand that it was for information, information in the very innocent sense, for those who did not have money to buy newspapers.

UNKNOWN:

Mr Chairman, without trying to drag this thing out, I think what Dr Schoeman is trying to make is that, although we have appreciation for what our secretary tried to do for us, I think rather than become embroiled in a sort of subjective situation which you would either have it balanced, which is difficult, or not have it at all. It think this is what, I mean this is no criticism of our secretariat, I think they tried to do good, but it's caused I think, those who don't like it, don't like it and those who like it are those, I think it is.

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CHAIRPERSON:

Yes, Ladies and Gentleman, I wouldn't like us to engage in this irrelevant type, in the have a debate this matter has been cleared, the secretary has taken note that it was wrong to have put it in and it is not on the agenda, it was not even

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on our agenda, it will be removed, but I don't know whether they will be able to remove the one in your pocket already because you have received it, you can remove it, in your pocket and tear it off or send it back. It doesn't concern us in the theme committee, because it is not in our agenda. We are working according to the structure of the agenda, that document, as well as the content, is not relevant for us. Lets go to the next item. Item 5. Draft, the discussion on draft report, uh, technical committee.

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UNKNOWN:

Thank you, Sir, this draft report was much more difficult to draft than the, as you will see, than some of the other ones we have had thus far, again part 1 is very much like the other reports, it notes that, there have been public submissions, that is not attached at this point, the summary overview from the, of the public submissions is not attached at this point, but it has been prepared and is being typed up and the secretariat will have it.

Secondly, the briefing document is again not attached at this point, it will be attached to the final report, that members of the committee has seen already. Point C and D are

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merely noting, for noting purposes on point E contains the constitutional principals which indeed were contained in the briefing document. So there is nothing new there. The new part, of course, is part 2 of the report, over on page 2 of the extra documentation at the bottom there, firstly general discussion of the material, and here members will have noted that the, in the compilation of this report it was difficult to simply put issues into contentious issues and non-contentious issues and that what has been done here is the creation of a third category, issues raised by at least one party not directly placed in contention by another party. If members cast their minds back to the submissions made by the parties, they will remember that there were very often points made by one party which were made only by one party, and which weren't responded to in any way, either in the written submissions or during discussion. 10

And therefore, there was a difficulty in my mind as to know how to deal with those issues, and so I've created this third category which I will go through, sometimes there was more than one party that had mentioned points. So again, a general discussion of the material, on the bottom of page 2 20

submissions covered a large number of issues relative to the economy.

A common approach seems to be, that the parties wished the constitution to deal with economic in broad outline leaving the detail to legislation and then I note the point that I have just made now to the committee. As a non-contentious issue, all parties, except the Freedom Front which did not specifically deal with this matter in its submission on this block, endorsed the notion of constitutional measures to assist those disadvantaged by past discrimination in the economic sphere. Different labels are used to describe this: Upliftment and greater equity, affirmative action, substantive equality, active equalization and economic equity, either I lifted those phrased from the documentation from the submissions of each of the parties. 10

What is in contention is the duration of those measures, how long those measures will last. And that is noted under contention. And then, point C, paragraph 3 issues raised by at least one party not directly placed in contention by another party in their submissions to this block. Several 20

issues have been identified as follows:

1. The ACDP proposed that the final constitution should provide for total transparency in respect of financial matters and legislative measures to provide small businesses. The ANC access to land, the removal of inequities in that regard, and addressing the balance to full and equal participation in the economy by woman, including their unpaid labour. The ANC and the National Party referred to a protective and sustainable environment in the light of 10 economic development needs. The ANC, the DP and the NP wanted labour relations to be dealt with in the bill of rights and labour legislation. The ANC and the NP, sorry the DP and the NP, wanted the outlawing of servitude and forced labour and the ANC and the NP wanted exploitative labour practices on children to be outlawed.

Sixthly the ANC, the Freedom Front and the National Party wanted the regulation of the economy to be dealt with in the constitution in the context of their understandings of 20 democracy.

Seventhly, the DP and the Freedom Front wanted an equitable division of national revenue considering economic needs, that was a point that was brought out in oral discussion with Senator Moorcroft, between the central and provincial governments and the establishment of institutions such as the Financial and Fiscal Commission to advise on such matters.

And then, in bold type there, it must be emphasised once more that the fact that a party cannot express themselves on one or more of these matters in this block, does not necessarily signal agreement or otherwise. It's just to state plainly for the record that parties might have dealt with these matters elsewhere or might be dealing with this in the future, so this are not non-contentious points, but they are also not contentious points, they fall in our first weeks of meeting this year, we talked about putting things into parking bays, you will recall, I think Mr Mahlangu of the chair coined that phrase. These are essentially issues in parking bays at the moment.

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And then if we come to contentious issues, firstly the

duration of measures to assist the disadvantaged. Both the ACDP and the NP contend that affirmative action measures should be temporary in nature, either for a fixed period (the ACDP) or until the objectives have been attained (the National Party). Free economic activity and the free market system, the ACDP, DP, FF and NP argue for constitutional recognition of the above.

The PAC places this in contention indirectly by arguing that national economic interests and policies adopted by parliament to attain national economic upliftment and a society of economic equity and social equality should prevail, although acknowledging that the state shall follow no orthodoxy in working to satisfy the economic needs of the South African people. That, the language there between the inverted commas is directly lifted from the PAC submission. It was not an easy task to paraphrase that in any way. The ANC calls for the promotion of greater democratic participation in economic life which might conceivably, impact upon the issue of free economic activity in the free market system. Thirdly, property rights. The ACDP, DP, FF and NP also argue for entrenched rights in

private property.

The PAC believes, however, that no individual or group can have the right over the wealth or a fraction thereof within the boundaries of the Republic which may constitutionally and legally supersede the right to the national parliament. It does argue that, while individual property rights shall be constitutionally protected against other individuals or groups, they shall not be protected against parliamentary action in the pursuit of national economic interests. The ANC argues for constitutional regulation of the redressing of inequalities in regard to access to land which clearly might have implications for private property rights. Part 3, the (inaudible) ... we are dealing with representative governments in this block, and then on page 5 is the analytical survey, again I have included, the third column there, the middle column, sorry on the right-hand side, not completely the second-last on the right, I have managed before but not directly encountered, there the seven issues which I talked to you earlier on, and if you would perhaps just note on the right-hand side the remarks column that affirmative action, the measures to assist those

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disadvantaged by past discrimination is within the jurisdiction of Theme Committee 4.

And the duration of those measures are contentious, is contentious, and in between question marks there, there's a remark that something about substantive equality or active equalization or affirmative action or measures to help disadvantaged people, might be mentioned in the postamble or the preamble. In regard to the free market system, and free market economic activity, that right is certainly within the jurisdiction of Theme Committee 4. Protection of property rights is also within the jurisdiction of Theme Committee 4.

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And then, with regard to the 7 issues below, it just might be, and this is purely a suggestion, that some aspects may appropriately be included in the preamble and the postamble. And then the submissions of the parties have touched overleaf. Thank you.

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CHAIRPERSON:

Thank you for this recorder. The report is now on the table. I see by the rise of hands you support discussion.

Parties can make comment. Mr Lekgoro.

MR LEKGORO:

Thank you Mr Chairman. On category C, we were just wondering, the ANC wished to make a submission that we, is it not possible for this meeting to take it through this meeting to look at those areas, because it is our belief that the wires that draft us had a problem that the other parties did not express themselves on a different points, but these are areas where probably all parties have a position and it would be easy to find whether they agree or disagree and then be able to categorize them into contentious or non-contentious. If that is agreed upon, we would require the Chairperson to take the meeting through that exercise.

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CHAIRPERSON:

Is it agreed that we follow that exercise? Is it agreed? Thank you. Then let's go to category C on page 3 and let's take the first point there, total transparency in the respect of financial matters and legislative matters to promote small businesses. Seemingly this point was extracted from the submission by the ACDP. Could we hear the other parties whether they are in contention with this statement or not?

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MR MAREE:

Chairperson, before we would be able to express a view in this regard, I would just like to have some clarity as to what is meant by total transparency in respect of financial matters. Does this relate to financial matters that are being dealt with by the government or does this also included transparency also in the private sector? And then secondly, in regard to measures to promote small businesses.

My question is whether this should be included in a constitution and whether this shouldn't be dealt with in other legislation. 10

CHAIRPERSON:

Could clarification come perhaps, Mr Moorcroft?

MR MOORCROFT:

Yes, Chairperson, I concur with what Mr Maree has put, I would just point out also that there are two different issues at stake here, and I think if you are going to ask parties whether they are in agreement or not, both issues would be put separately, for example, the DP would have no problem in general terms with transparency, in financial matters 20 provided we had, as Mr Maree said, a little bit more clarity there, but when it comes to promoting small business, I

think we have agreed, many of us agreed, that one doesn't want to include this sort of thing in a constitution, the business, tie in a constitution so we should really separate those 2 issues.

MR CHAIRPERSON: In the absence of any Dr Mulder, Ms Pikoli.

MS PIKOLI: Further to the issue of transparency is, I mean, if we were to accept that the issue of the promotion of small businesses comes into the constitution, the issue becomes, why would we talk about transparency only insofar as promotion of small businesses or what is it that people want to come out with regard to, what's the message about small businesses exactly? And transparency, why would we qualify it total transparency, and transparency, why do you want to put a qualification about transparency. 10

MR MOORCROFT: Can I respond it that, Chairperson, the last one. I think what the correction would be, if this means that every business has got to make all of there private financial statements available to anybody who wants to see them, would be problematic. 20

CHAIRPERSON: The ACDP.

UNKNOWN: Thank you Chair, we do not have business in mind, but the government, because the government is dealing with the tax-payers money, so people need to know what is happening with their monies, this has nothing to do with businesses and regarding the second one, pardon.

MR MOORCROFT: Do I have to just say so?

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UNKNOWN: OK, then regarding the second point on legislative measures to promote small businesses, this again was not calling for transparency in the small business, but was just trying to boost the small businesses so that they can also be established, but we do not insist that it should be in the constitution. I would accept that if members feel that it must be dealt with in the legislation.

CHAIRPERSON: Here is the clarification given by the ACDP, what do the parties say now? Clarification has been given, if sufficient, lets hear why the parties say it is not sufficient, let the parties say why it is not sufficient so that further clarification

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then can be given. '

UNKNOWN:

Chairperson, if the reference to small business could be left out of this, and if it could be made clear that the transparency that's been referred to here relates only to government finances, then we would find that acceptable.

MR MOORCROFT:

Likewise ourselves too.

CHAIRPERSON:

Mr Lekgoro.

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MR LEKGORO:

Just in relation to the last clarification, does total transparency means transparency, is there a difference, or the same. It's transparency. OK. No, he says it's transparency. OK, now if it's transparency we would be OK.

CHAIRPERSON:

Mr Cwele.

MR CWELE:

Because, trying to find out from the ACDP whether that was a registered mission, we only talk of that total transparency when we are talking in relation to the Reserve Bank, where we actually cash (inaudible) ... and this and

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this.

CHAIRPERSON:

Well, its true we did make mention of the Reserve Bank that, there are questions that are asked and we are interested in knowing who are the stakeholders. Professor Corder.

PROF CORDER:

Would it help if this point was to be stated as far as transparency in respect of public financial matters.

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CHAIRPERSON:

The ACDP.

UNKNOWN:

I'm here.

CHAIRPERSON:

Oh Sorry, (Inaudible) ...

UNKNOWN:

Yes, I would like to apologize for being late, Chairperson, I had other things to attend to before coming in here. I'm not so sure because another theme committee is dealing with this, or matters related to this, secondly there is the question of the rise of labour, for instance, which is a matter for labour relations legislation about companies having to

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disclose information for purposes of negotiations and so on.

I just want to check.

Maybe, the technical experts can help us, that do you want to forward such a clause, wouldn't such a clause preclude if it is put in the constitution the possibility of say labour, for instance, wanting private business to disclose information for purposes of negotiations, I am just seeking clarity on that, that when you put it in that way, actually just make private institutions to see this as a way of disclosing even in terms of labour relations, how does this relate to, for instance, the issues that are being discussed now in terms of the labour relations bill? Thank you.

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Mr Chair, I don't think that such a clause would preclude those sort of legislation that you contemplating, clearly the issue here is how the state deals with public funds and the fact that he requires to be transparent in doing so. It cannot be read into this particular clause, as amended, that it would preclude, unions or any other interested parties parliament from passing legislation which would require companies to make available their records to Unions, there

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clearly isn't such a preclusion in here.

CHAIRPERSON:

Any input on this matter? Let's draw it to a conclusion. Ms Pikoli.

MS PIKOLI:

I just have, I need clarity perhaps from the technical experts, when we say transparency in respect of public financial matters, public finances, accepting the principal of transparency, but at the same time one would like to find out whether then this shall cover measures that the government might have to take with respect to certain sensitivity at particular times, where there is a necessity to withhold certain information until certain things in place, whatever the reasons, but ultimately that information shall ultimately be unveiled to members of the public but you know, when certain conditions have been met, I am then saying that this statement would cover that.

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Because I really assume that there would be such instances where, lets say there were some contracts that government was negotiating and it was not, it would not be to advantage to divulge the information concerned until, you know,

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whatever is true, and only then can the information be publicized. The question is whether that kind of limitation would be catered for in this kind of statement.

MR MOORCROFT:

Could I respond to that in the following way? Is that, I think that what we are dealing with here, and from the beginning as you will see in general discussion of the material, we are dealing with issues of broad outline, and I think that was the manner in which it was put forward and the manner it is phrased in our transparency in respect of public finances is an issue of principal and if members recall the remarks column, in relation to these, some of these matters might like to form part of the preamble or post amble, in other words that it would be put as a sort of an ideal that is the kind of issue to which, to which the constitution should enshrine. 10

But the detail of this, as Dr Nzimande, correctly pointed out, is in fact being dealt with by one of the sub-theme committees of the Theme Committee 6. I can't remember which exactly, I think it's 6.2, deals with the Reserve Bank and financial and fiscal commission, etc. I mean, aided, its' 20

very unlikely that there will be a specific clause in the constitution expressing this point.

And B, any action which parliament takes by way legislation is testable against the constitution, but it's how it's phrased in the constitution and the manner in which legislation is adopted, the content of that legislation which is going to determine whether its constitutional or unconstitutional, and I don't know of any country in the world that opens all its public finance books to anybody to look at any stage. 10
There, just like freedom of information as part of accountability that we dealt with and approved last week there will be times there will be secret documents, there will be cabinet discussions for instance, etc, are traditionally regarded as being off the record secret discussions.

CHAIRPERSON:

Do you want the statement now to be shifted to non-contentious or contentious or to be left in the parking bay? Can I get that proposal to that effect? I said I hear the nos and the yeses, but I don't know which is which. 20

MS PIKOLI:

In the manner in which, Professor over there rephrased it,

I think it is non-contentious.

CHAIRPERSON:

Have the parties agreed that we shifted to non-contentious? Alright. So the technical committee will take care of that. Lets go then to sub 2 under C, as we agreed access to land, the removal of inequities in that regard, and addressing the barriers of full and equal participation in the economy, by women, (including unpaid labour), any problem to have this being non-contentious?

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UNKNOWN:

I ask a question for clarity, Mr Chairman? I would like to know what exactly is meant by access to land, is this access to tribal and communal land as well, by the ordinary citizen and the other part of my question is the removal of inequities, as far as I know that all inequities have been removed, but maybe we can get more information of which inequities are we referring to.

CHAIRPERSON:

Mr Maree.

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MR MAREE:

Before Professor Corder, or one of his colleagues reply, the reference to removal of inequities, is that not more or less

the same thing that is dealt with on the next page 4, under property rights, the last sentence here, the ANC argues for constitutional regulation of the redressing of inequalities in regard to land. Now it's been made contentious, on page 4 but it is an undecided matter on page 3 and I want to have clarity on that one.

CHAIRPERSON:

Could we get answered?

DR SCHOEMAN:

The answer to that is as far as that if you refer to the ANC submission, which was a single page submission in pact No. 8.26, of last week, point 2, point 3, reads under constitutional regulation of economic matters, the constitution shouldn't keep, include provisions for access to land and for the redress of inequities. Now, the reason why it appears twice is as follows: None of the other parties put that point directly in contention in it's submission, as such, but so that is why it is included in category C.

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But, the way I interpreted that statement, the constitution should include provisions to access to land and the redress of inequities, is that it could, indirectly, affect property rights

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on the present holders of the property and therefore I included it as putting the sanctity or the constitutional protection of property rights, private property rights, it could place that in dispute, and so it, that is the explanation of the dual appearance, the two-fold appearance of this provision.

And could I perhaps just suggest that we are really dealing with 2 issues here, one is access to land and the removal of equities, and the other one is the barriers to full and equal participation in the economy by women. It might help discussion if they were separated out. 10

CHAIRPERSON:

Thank you. Do we have a response from the ANC which made the submission in this regard. I think there are explanations needed by Mr Maree and Mr, the gentleman here, Dr Schoeman. Could we invite any response from the ANC?

And the question is, Mr Schoeman or Dr Schoeman says, what inequities are we referring to because they have all be addressed, you have their land you have everything, what are 20

you trying to do now? You talk of in equal inequities, if I'm misquoting you, say so.

DR SCHOEMAN:

Mr Chairman, yes, I didn't say that you have the land and everything, I said, inequities in gaining access to land.

CHAIRPERSON:

Response from the ANC. Dr Nzimande.

DR NZIMANDE:

Chairperson, I don't know, maybe one needs to throw the questions back, you know. I don't think it is for us to answer that question, basically the level and the extent of the inequities in this country are enormous otherwise it is tantamount to denying apartheid and 300 and something odd years of exploitation and inequalities in this country.

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I don't understand, that is why we need to ask the question, which inequities have been removed? As far as we are concerned now. I think the best way to answer this question, which inequities has been removed, because as far as we are concerned ownership of the land in this country is almost still exactly as it has been under apartheid as we are talking now. We can't be talking about this little bits

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and pieces where people have been returned to barren land now or something like that.

And it is for that reason that as the ANC we are arguing that there should be provisions for that in the constitution, taking into account the reality of our past.

DR SCHOEMAN:

Mr Chairman, if I understand correctly, and that was my question, is it inequity of access or the inequity of distribution and it seems as if I, if I hear correctly from Dr Nzimande, it concerns the inequity of distribution and then, if that is so, then this must be placed in the contentious issue.

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CHAIRPERSON:

Any other input? Very short, when it is contentious it is contentious, if not, it is not. Very simple. Any other input? It seems there's no further input. Is it in contention. Oh. What's that, Mr Meshoe. A question on this matter, we just been decided, same paragraph here, could we finish just this point and then we can go to the next item?

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MR MESHOE:

(Inaudible) ...

CHAIRPERSON: I thought the same paragraph, but a different point, Mr Meshoe?

MR MESHOE: Ja the same point 2,

CHAIRPERSON: The same point 2, the latter end, talks about (inaudible) ... participation in the economy by women, including the unpaid labour, now I would like to know what are we talking about by referring to unpaid labour of women. Does this, I heard somebody talk about, women who are at home rearing children and manning the fort, do you mean they should be paid for that?

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Any response. Sister?

SISTER BENNETT: I think we dealt with that question last time when we explained it in detail what it means.

CHAIRPERSON: Any other, Mr Meshoe.

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MR MESHOE: I need further clarification, Sir.

CHAIRPERSON:

I thought the person who replied says the question was dealt with in the previous meeting. Should we repeat what we said last time? Alright,

SISTER BENNETT:

Ok, maybe for your privilege. We thought we explained that the unpaid labour definitely means that it is a national issue that has to be handled at a national level, mothers who are also working at the level of a home base is not just referring to family, family issue, it is wider than that because they are also deprived of the benefits of what other workers are actually reaping in terms of their pensions, their health scheme and everything else. That could also be provided for them.

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UNKNOWN:

A point of clarification please, chairman, who's going to pay them? You know, if I've got to pay my wife for making my breakfast for me, there might be a problem Chairman.

SISTER BENNETT:

When we say it is a national issue, it means that if the government of the day, according to the United Nations, discriminate and eliminate, elimination of all discrimination against women, it means that the tax-payers money should

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also consider them as part of the working force.

CHAIRPERSON:

Mr Meshoe.

MR MESHOE:

I think I would have a problem with that. That is, the ANC will have a problem with that. If I may give an example, my father was not paying my mother, but he was giving her the whole cheque, and as far as I am concerned I don't pay my wife, but what belongs to me belongs to my wife. Now if we are going to say wives must be paid, it has to be clearly answered, paid by who? Because it doesn't come out very clearly, the state cannot pay my wife for doing, taking care of my children at home.

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CHAIRPERSON:

Is there any other comments still . Who's that? Mr Maree?

MR MAREE:

May I just say, I think we shouldn't dwell much longer on this, on these 2 issues, we should place them both under contention. The first one, I just want to explain access to land, etc. I would be able to go along with that, but then according to my interpretation, which might be different from Dr Nzimande's interpretation and for that reason I

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think it should be placed under contention.

CHAIRPERSON:

Is it agreed that we put it under contention? Thank you, thank you. It will go a little bit faster that way. Yes DR Nzimande?

DR NZIMANDE:

Chairperson, not that I'm against this being placed under contention, but I think that it also helps us in the ANC if we understand exactly the nature of the contention. Because, to us, this is quite serious, you know, that there are parties who are not willing to, who are opposed to taking into account the question of the unpaid labour of women. And I was going to say in addition to what Sister Bennett had said there. That the whole structure of the economy is such that the fact that there are people who are performing what is called domestic labour that is part of the mainstream economy by its very nature, that without people performing domestic labour, we wouldn't be having workers going to work and doing the kinds of things and being able to have the time available for that.

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In essence, it is an exploitative relationship that is based on

gender inequalities, because it is normally women who are doing this labour, and our argument as the ANC is that in calculating for instance your GDP or your GNP as one way. This issue needs to be taken into account.

And it also comes up when you are looking in terms of leave entitlements. That leave entitlements you must take into account the question of rearing children and so on. By right that should be taken into account for everybody, but because it is usually women who are doing that, it is not adequately taken into account and then it's women who end up suffering, doing work that is important for the sustenance for mainstream economy, but that not being realised, and that is what we are arguing for here, that it actually then becomes the main basis for the exploitation and the oppression of women in society, that is what we mean. 10

And we are saying that it is very clear, and I don't think that we should take this as a joke, it is something that is very serious because it is about eliminating inequalities in society. It is not a job that we just want, Oh my wife will be happy or not be happy, but it is a very fundamental question if we 20

are to bring a South Africa that has got equality. Thank you.

CHAIRPERSON: Dr Schoeman.

DR SCHOEMAN: Mr Chairman, I think that not one of us don't recognise the role that a woman plays when she stays at home and does the domestic chores, but I would like to know from Dr Nzimande, just to know the implication of what is standing here. Which country if there is a country in the world, does what he envisages, with what stands here. So that we can know what the implication would be on the national economy. 10

CHAIRPERSON: Ms Pikoli.

MS PIKOLI: I think, one thing that is becoming clear is the difference of the backgrounds, different backgrounds that we shall come from. I think that one comes out very clearly and the fact is, first and foremost for me, I do not regard the fact that there is no example elsewhere of this kind of submission that we have made, that we are stating in terms of the new 20

constitution the fact that there is no example elsewhere should be, something that makes us say, we therefore as a country cannot make a start.

If anything, that there is a recognition by the UN of what we are stating tells us that somebody wants to start something elsewhere, and as far as I am concerned, in some countries whether it does not exist in the constitution but there is legislation that does make provision, and I think it causes, but it places a challenge, it places a challenge as to whether on our will, whether we have the will, if we have that will, I think we shall come up with measures that shall give attention to what we are stating. 10

And therefore, for answer to the ANC, it is a strong matter, it is not a joke, I mean I look at people who are making it as a joke, it is not a joke. We are saying the state must begin, not by merely verbal articulations, begin to actually state it in writing give that recognition of women, and I think we shall come up with measures in terms of how that shall be measured and how that shall be realised at the end of the day. I think it places us, it places a challenge for now 20

the ANC's arguing for that recognition to be placed in the constitution.

CHAIRPERSON:

Thank you. Mr Maree, then Sister.

MR MAREE:

Chairperson, what I would like to say is this. The fact that we are placing these 2 matters under contention does not mean that we are now removing it from the agenda. The significance of placing a matter under contentious, under a contentious category is only to indicate that this matter should now be negotiated, we classify matters as not being in contention so that we don't waste our time, once the matter gets to the constitutional assembly by starting to talk the whole matter over again. 10

So this is not going to be removed from the agenda, this doesn't mean that we are, that we have understanding for your views, this doesn't mean that we are now going to close our minds and stop listening to you, it only means that this matter will have to be discussed and negotiated in the next stage of the process of negotiations. 20

So I believe, and the reason for that is of course, that we don't have the authority to negotiate, we can only identify matters are being completely non-contentious or matters that should be negotiated afterwards, and I think in view of that, we should just place it now under contention and proceed with the negotiations later.

UNKNOWN:

On the point of order, can Mr Momberg explain to us please what's going on here now?

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CHAIRPERSON:

Alright, we'll ask him later or right now. I want to, it seems a general consensus that we should have this matter placed on contention, but I think what Dr Nzimande was trying to say, Mr Maree, I think he was not trying to say people are unreasonable in making that, he was merely just trying to, that the parties should indicate what is contentious so that in the remarks column the technical expert can say that what is in contention is that party A says that this is out of order, party B is feeling this, in other words, actually extract the gist of contention, I understood him along those lines.

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MR MAREE:

Perhaps I should explain this like this. I accept that we are,

that we are coming from different backgrounds and that we need to listen to what the ANC and Ms Pikoli, in particular, because she's a woman has to say about this. Then we must put forward our arguments also, because in regards to the unpaid labour that, in other, in one way or another to compensate, I rule for the unpaid labour. The matter of the affordability will have to be discussed. We, this is not the venue where we should discuss that.

And I can give all the assurance that once we get to the negotiations, negotiating stage, this matter will be dealt with by us very seriously. 10

CHAIRPERSON:

Thank you very much. Then it's very clear that this matter is a contentious one, I hope the technical expert are with us will take it, will transfer it from the bays, the parking bays to contentious.

Then lets go to item 3, C.3 on page 3, that is, a protected and sustainable environment in the light of economic development needs. According to the note, ANC and the NP came up with this submission. Could we hear whether 20

there is any contention on this matter, and if so, what?

MR STREICHER:

The DP will go along with it.

CHAIRPERSON:

The DP goes along, it seems that all parties are going along,
The silence must consent if one uses another terminology.
Dr Mulder.

DR MULDER:

Sir, the question at the end states, what must go into the
constitution and what not. And we can add forever and 10
that's the only thing that makes me nervous, that there's so
many things that you can think of that must go in that it will
become a very complicated document. There is nothing that
you can really be against that, but I can see the
constitutional court sitting on the Iscor situation, etc, etc,
because it's all those implications that we must think
through.

But as it is here, we don't have a problem with that and lets'
make sure if there's any guideline on what needs to be in 20
the constitution and what can be dealt with in other ways in
the country, that's the only problem.

CHAIRPERSON:

Any other comments from any other parties? It seems here if I understand it, there's no contention on the statement itself but regarding what is to be included in the constitution and I think there are guidelines given by the CC already, as to how should the law advise us and the technical experts go along and what should be included and not included.

But it seems this point itself is not under contention, if I understand right. Mr (Inaudible) ...

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UNKNOWN:

Comrade Chair, thank you very much. Here the question of a protected and sustainable environment must be very clear here that as far as a sustainable environment is concerned, we are actually referring to the physical environment, you know the ecology, (inaudible) ... Resources and so on. It must be kept in a state that it can facilitate economic development needs. We just want to make that very clear, from our side.

CHAIRPERSON:

There's a fair explanation. That the understanding should go along those lines. I will still agree that this is not a contentious issue, should be removed to non-contentious.

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Thank you, the technical experts are listening very carefully that this is to be removed to non-contentious.

Thank you very much, then the next item is 4. Labour relation to be dealt with in the Bill of Rights and Labour legislation. Any comment on that? Parties do not have any comment on that? Mr Gumede.

MR GUMEDE:

Thank you Honourable chairperson. The issue on labour relations I think is quite important and then there are fundamental issues on labour relations which would be highlighted whenever we deal with that. Particularly the right to organize the right to collective bargaining and the right to withdraw labour. And, I understand that it is going to be discussed by another Theme Committee, but that notwithstanding, I believe that it would be correct for us to have it clearly put across in this Theme Committee. Thank you.

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CHAIRPERSON:

To indicate by putting across, what is your suggestion, regarding this particular suggestion?

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MR GUMEDE:

That, labour rights, here it is the Bill of Rights, we assume that these things are going to be in, but we haven't seen , the Bill of Rights as it is now. And that is dealt with under Theme Committee 4 or Theme Committee 6, I'm not sure, so rather than assume, I think it is better for us to be definite that the basic rights of labour like the right to strike, the right to organize and the right to collective bargaining should be spelt out clearly in this Theme Committee which is the framework of the other Committees. Thank you.

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CHAIRPERSON:

Matters on discussion if I understand the ANC. He says they made the question of collective bargaining and the right to organize and even withdraw labour should be constitutionally recognized, not only in the human rights Theme Committee, but here it must be clearly stated this, seemingly the submission of the ANC has indicated. Any problem there?

DR MULDER:

Chairperson, I think we shouldn't go into the detail of the matter in this Theme Committee, because then we are going to run into contentious, in a matter of creating contentious

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issues again. For instance I haven't got the various submissions that were made and that gave rise to this report now with me but I can remember for instance I and the party to which I belong won't have any problem which inclusion in the constitution of a right to strike. That was also a point that was made by the ANC.

But we also, we are also serious about the right of the employers and therefore the right of to lock-out, to our in our view should also be included and I can remember that, that wasn't included in the submission that was made by the ANC.

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So as it stands now here, in rather vague general terms, I'm quite prepared to go along with it that, that statement should be removed to a non-contentious, to the non-contentious part of the report, but I don't think that we should try to spell out the detail here because otherwise we are going to run into problems again.

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CHAIRPERSON:

Ja, there are different views, the NP says the statement should remain as it is, no further details must be brought

forward, the ANC says the important constitutional right of organizing by the workers together with the right of withdrawal of labour should be put in place here, which is to be commented on.

MR GUMEDE:

Ja in fact, what I'm saying is that, I mean issues that are contentious if they remain contentious it does not mean a problem, there is a process through which issues can be resolved, because I mean the issue of the lock-out, there could be an argument that says that once property rights are invoked, then the labour process and therefore the right to lock-out starts operating. So I mean, as long as we can have it as a contentious issue and then if it is addressed in another Theme Committee as soon as we find out that it is there we will throw a Theme Committee one.

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But that does not remove the fact that we are part of the framework of the constitution as Theme Committee one.

Thank you.

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CHAIRPERSON:

Professor Corder.

PROF CORDER:

Perhaps I could try to be of some assistance here. the reason why this is phrased in this way in a broad generality and using the word labour relations it's actually taken from directly from the ANC, the introduction to the ANC section here reads, labour relations will be dealt with in the Bill of Rights and the Labour relations act, I just generalized that to Labour relations, the labour legislation. But it's exactly the dispute over the right to strike and the right to lock-out that I wish to avoid by seeking common ground, and so the labour relations should be dealt with in the Bill of Rights and labour legislation. But this could be dealt with, and this is perhaps a suggestion to move us forward here, that this statement here if it is non-contentious could go ahead as non-contentious with a footnote to it that the contentious part of it, which it seems to me is the, in the relationship between the right to strike and the right to lock-out.

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That seems to be, from my memory of the discussion last week, there was no difficulty with workers rights to set up trade unions and to engage in collective bargaining. The problematical point came in at the point of including the withdrawal of labour. That is a suggestion, that just like

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with affirmative action in the first paragraph and the duration of those measures, if affirmative action is non-contentious but the duration is contentious. Perhaps labour relations rights, as expressed there is non-contentious but the right to strike together with the right to lock-out are contentious points.

CHAIRPERSON:

Do you want to make any other comment?

MR GUMEDE:

We can go along those lines, its not a problem.

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CHAIRPERSON:

Ja, I think we should not be afraid of contentious, to, to put a word there, I think the idea is not push everything to non-contentious because there are strong, there are bottom lines for parties, so the moment one pushes just to put general statements in order to include what the party actually when it comes to detail, the fight comes very high when the matter should have been canvassed right at the beginning. I think that is an important aspect.

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So, here, I think if I understood then the ANC they would like to have a question of collective bargaining with an

appendix of having a right of withdrawal of labour by workers be put as a principal whether it goes to contentious or non-contentious but it is a principal they would like to have in that. Is it possible to have such a principal included either under contention, contentious or even as one calls it parking bays.

PROF CORDER:

Its up to you Sir, that's not how I understood Mr Gumede's response but it's up to you entirely, we're in your hands, we'll put in the report whatever you want in the report.

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MR MULDER:

Chairperson, may I just say that I agree with Mr Gumede and I think the way the matter was phrased by Professor Corder and the suggestion that he made as to how it should be dealt with, I find that in order

CHAIRPERSON:

Ja, is it agreed? Thank you very much. That's it. Nothing, I thought somebody was not satisfied, I heard a voice going up. Oh thank you very much.

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Let's go to the next item. 5. Lets go to 5. Labour relations, no, no. We've dealt with 5, I think. Oh, there are

two 5's today, Oh, We are doing blowing 5 now, they are blowing off servitude and forced labour, right. What do you say there? Dr.

DR NZIMANDE:

Chairperson, I wonder in the light of the earlier discussion whether the other parties would consider that under 5 we also add women after children and leave it at that general level. Because that is the point that partly we were trying to cover under 2. But the other parties didn't like the specifics there, but that if under this then you say the outlawing of servitude and forced labour and exploitive labour practices on children and women, not that we are tying children to women, but we understand that there is the (inaudible) ... we are not tying that necessarily, but we are recognising the specific position in the economy. 10

DR MULDER:

Add men as well. I'm serious about that, what's the difference.

PROF CORDER:

Mr Chairman, does that imply that we scrap it in 2 and then we just keep put - women in 5. 20

DR NZIMANDE:

No, it doesn't mean that. When we have, oh sorry Chairperson, we have decided that 2 is contentious, so it goes under contentious and what I was arguing was that under 5 it goes as a non-contentious issue but we include women. It that is unacceptable that's fine, we can leave that. But I would have thought that it's important in terms of the point we are trying to make.

CHAIRPERSON:

Mr Moorcroft.

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MR MOORCROFT:

Yes, I think I agree with my collogue, Dr Mulder, on this one, it is not, it is a question of wording really, if we say exploitative labour practices of children, it could mean that we would not be versed to exploitative labour practices on men and women.

But I think Dr Nzimande, if we don't want any exploitative labour practices on men, women or children, so perhaps just to try and meet Dr Nzimande's problem here, if we could say exploitative labour practices including women and children. That would cover men, women and children, include the whole field, I don't know if you find that to be

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helpful.

CHAIRPERSON:

Mr Maree.

MR MAREE:

I assume that the professor also wants to say something, but before he comes in, my problem is I, we are now trying to complete this report today to send it to develop it to such a point that it can be forwarded to the Constitutional Committee, and as far as I remember when I drafted our submission I referred to the constitution, which I don't have with my now, and actually I had something different in mind when I referred to exploitative labour practice just on children and something different than the argument that we had in the first instance when we talked about the unpaid labour and so on of the women, so I would have a problem to include women in there because I had something different. Exploitation of children is different is different of any other exploitation and I would like to see that standing by on its own there.

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CHAIRPERSON:

Professor Corder.

PROF CORDER:

Because I could read Mr Maree the from the National Party submission, it's every child must have the right not to be subject to exploitative labour practices, nor and not to be required, or not to be required or permitted to perform work which is harmful to his or her education, health or wellbeing. So that there are two legs to that and that, that is directly quoted from section 30.1.C of the constitution at present. Or it might be E. But every child must have the right not to be subject to exploitative labour practices, nor to be required or permitted to perform work which is harmful to his or her education, health or wellbeing. And the ANC submission, because those are the two parties which were, the ANC said the exploitation of children in the work place will be prohibited.

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So that is an attempt to find what I thought was non-contentious common ground between the two, and perhaps it could read as follows, following on what Mr Senator Moorcroft said, the outlawing of servitude enforced, servitude, forced labour and exploitative labour practices, especially on women and children. Something along those lines.

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CHAIRPERSON: Will that be acceptable? Okay, thank you very much, that is non-contentious.

DR MULDER: It is really - I don't want to be difficult but I would like to know then, why should women and children be signalled out and why shouldn't we make that a more general statement?

CHAIRPERSON: Any other input? Yes Sister.

SISTER BENNETT: I think the whole case is at the level of economy, I think we are focusing exploitation within the ambits of economy, because as you can even read there, the picture is that exploitation of children in the workplace. Children are exploited in many other places which are not just work place. But the focus is at the ambit of looking at focus of economy. 10

CHAIRPERSON: Ms Hangana.

MS HANGANA: Ja, Comrade Chair, just a follow up to what Sister Bennett just said, I think to emphasize the fact that perhaps we come from different backgrounds of schooling. That when 20

we talk about the economy and women what happens is that when society wants a cheaper route in terms of boosting the economy, and businesses obviously take women because they pay women less than men and the same applies to children.

Like for instance its happening on such a vast scale within our country when we look at women where women are employed today, on the farms, they are replacing jobs that used to be done by men and even in the building industry 10 women are now replacing men, the job used to be done by men and because they want to, I mean they are paid cheaper than men and various other places where we can give lots of examples of and this is exactly why we say specifically addressing the question of women and the economy.

CHAIRPERSON:

Mr Blade.

MR BLADE:

Mr Chairman, I would say that, especially in the farming 20 areas women and children in specifically tend to be exploited more than men. Women for instances in the

farming districts they have none of the rights which apply to men. They are, what you call, manual labourers for the whole year, although they are in service for an entire year and children are even in a worst situation to so that's' why we feel that women and children especially should be pinpointed to say that whereas exploitation could be effected to men, women and children are more affected than men especially.

CHAIRPERSON:

Mr Lekgoro.

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MR LEKGORO:

Ja, thank you Mr Chairman at the risk of deviating from what Comrade Blade said, I just wanted to ask whether, you see, I think on the issue of equality and equality of sexes, we should not model the issue of children within that frame, is that not safer to find a separation between the two because its a specific clause that goes for the protection of children and then separately should address the issue of sexual equality at the work situation.

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MR MOORCROFT:

Chairperson, on the point of order, could you please, I'm confused now, I don't know what we are arguing about

because we had all agreed I think on the wording of Professor Corder with the exception of Mr Maree who wanted time to think about it. So may I suggest, with respect that we proceed, until Mr Maree has had time to think about whether or not he is going to join in and support what the rest of us have agreed on.

MR MAREE:

Chairperson, if the idea is that we should try to make progress and save time, then we as far as I'm concerned, women can be included there under exploitative labour practices on children and women and then it will have, for the time being, to go under contention.

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DR NZIMANDE:

Ja, Mr Chairperson, I mean if that is the case not that we are sacrificing the point maybe we can press to that other point to. I think we had better leave it as is, in order to ensure that at least we agreed on the question of children. We will press you that point as a warning under point 2, which is contentious now.

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CHAIRPERSON:

So this is non-contentious as it is? Right, thank you very much. Lets go to the next item then. That is 6. The

regulation of economy in the concept of democracy. The ANC, the Freedom Front, the NP came up with the implications to that statement. Any problem with that, to have it non-contentious? Any problem? So its non-contentious. Right, so the technical experts will remove it to non-contentious.

Then, 7. An equitable division of national revenue considering economic needs between the central and provincial governments and the establishment of institutes such as financial and fiscal commission to advise on such matters. The DP and the Freedom Front, any person who feels that this is non-contentious, is contentious.

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DR NZIMANDE:

Provided there is no resistance to national government.

CHAIRPERSON:

So the matter is non-contentious? Mr Cwele?

MR CWELE:

I'm just asking the parties who came out with these rules who won't have any (inaudible) ... maybe we can change that division because we have different interpretations to allocations, then we won't have any contention.

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CHAIRPERSON:

So its non-contentious after writing allocation, right. Thank you very much. There is a statement in bold letters on page 4, it must be emphasized, is there any problem with that statement.

UNKNOWN:

Chair, with respect to that it won't be necessary because this category is going to disappear now in my view, this category C is going to disappear because things are going to go up to non-contentious or they are going to move to paragraph B and paragraph C will become contentious.

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CHAIRPERSON:

Alright, Dr Mulder.

DR MULDER:

Yes sir, its important in this sense that last time for example on the whole effort of wait here, affirmative action there was reports in the press about what happened in this committee and in the end it said the Freedom Front said nothing. And we had a lot of reaction, and I'm very serious in the sense that the press must really be sensitive to that responsible because the moment you start arguing, the other the SABC said on pornography, poor Mr Meshoe was the only guy who fought in parliament and that's a very negative

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way of reporting by excluding because you said nothing, so from our point of view we've had reaction at all our offices that we didn't react and remember I had, I was with Professor Corder at two three four meetings before on affirmative action and our wording of that and specific on the whole idea that we would like to call it equal opportunity and then on the duration of such measures must be important.

Now I see in the original copy of the text that was written, and I know also who did it, and he said, the journalist, in the end, it doesn't mean that some other committee or other place it wasn't said, but most of the papers left that last paragraph out because it doesn't make sense to them, they just sent a message in everybody fought except us.

So I just want to warn on the one side, please help us and be responsible because we had a big fight on this in a previous on the character of democratic state and we thought that if we put it there it's not necessary to put it here again. So I don't know if they must then argue to put it in here Freedom Front put in duration because we're

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nervous that you can't have it for forty years because then the Afrikaners are going to use it against you. There's no doubt in my mind about that.

CHAIRPERSON:

So if I understand you fight is that you are warning the press or are you saying we should retain the statement. Which is which?

DR MULDER:

No, no. I'm talking to the press as such.

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CHAIRPERSON:

Thank you the press has heard. Lets go then further to D. Contentious issues. We have one, the raising of measures, Mr Lekgoro is still on another item or this one. On one, ja. Here in.

DR NZIMANDE:

Mr Chairperson, I'm very sorry I don't want to take the theme committee back, I don't know, English is my fifth language but I'm just worried that point 7, there which now says an equitable allocation of national revenue, is it between or should it be to provincial governments instead of saying between central and provincial governments. It should become to provincial governments.

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UNKNOWN:

I would like to hear you in a first language, Mr Nzimande.

CHAIRPERSON:

Not even a third language. Thank you very much, I hope that does not affect you Dr Nzimande, I think that is corrected. Are we agreed that, that is to be corrected to be to and not between. Thank you very much. Then D under item 2, the duration of measures to assist the disadvantaged. Mr Lekgoro, you are, is your hand up?

MR LEKGORO:

Comrade Chair, we were wondering on this one that as far as we try to recollect there is consensus on the issue that this measure will be in place until the objectives have been attained, we agree that to a certain degree ACDP wanted us to attach a duration there, but we thought they said they are not hard and fast on that one and we were wondering whether it cannot be placed under non-contentious?

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CHAIRPERSON:

There is a view raised. What do you say on that? Reverend, although you mentioned five years in your submission but on further clarification you indicated that flexibility not being fixed on time as such.

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REV MESHOE: Well, I think its for you to determine whether to use as contentious or not.

CHAIRPERSON: Ja, no no. I think a bit more serious that the Reverend is merely just making us to laugh. The, Mr Lekgoro.

MR LEKGORO: Exactly that's how we deduct from the ACDP statement that the issue can remain non-contentious.

UNKNOWN: Can I just quickly, as worded here or I'm not exactly with 10
now.

MR LEKGORO: No, that measures on affirmative action will not be forever, it will be retained until the objectives have been attained.

CHAIRPERSON: Are we all agreed on that statement? Alright.

DR NZIMANDE: Can I make a suggestion Chairperson, that maybe the way it should read should be that affirmative action measures should be in place until the objectives have been attained, 20
something along those lines. Then take out for a fixed period because I don't know what fixed period we can agree

on, six months or forty years, or I don't know.

CHAIRPERSON: Reverend Meshoe.

REV MESHOE: I wish to say something, which is affirmative action should be temporary in nature until the objectives have been attained to.

CHAIRPERSON: Well Dr Nzimande indicated that English is his fifth language but it seems here, I seem to have the same 10 meaning for what he last said. I don't know but that is because it is my tenth language then, not even my fifth one. What do we say then on this one? It seems there's a question temporary (inaudible) ...

CHAIRPERSON: Ja, Mr Lekgoro.

MR LEKGORO: I think we are now getting into a difficulty, I hear politicians are battling to grasp now, I think the substance is said and that I'm sure our technical committee will put it in writing. 20

CHAIRPERSON: Is it agreed? Thank you very much, then we can go to the

next item. The next item is 3.2, pre-economic activity stroke free market system. Is there any non-contention in that?

MR LEKGORO: It is very contentious Chairperson, absolutely.

CHAIRPERSON: I think we should put it under very. Is it contentious.

MR MOORCROFT: Chairperson, the PAC is not represented here so I don't think that we can act on this one

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CHAIRPERSON: It is contentious, I mean.

MR MOORCROFT: I don't think we can discuss it because the PAC.

CHAIRPERSON: No they know, they have received notice to come to the meeting anyway.

PROF CORDER: Without the PAC, with Dr Nzimande it is contentious.

CHAIRPERSON: So this will be removed to contentious then if they 20
contentious, I'm sorry. Right thank you very much, lets go
to the next item. The next item is 3, property rights.

PROF CORDER: Just after the point of view of the PAC it cannot be anything but contentious.

CHAIRPERSON: Thank you. So it is very contentious also. I see. Ok, this matter then will remain contentious. Thank you very much. Perhaps the next item then is the next part of the report. The, what do you call it, the analysis. Survey of the report.

PROF CORDER: Sir, if I may say, that will obviously have to be reworded entirely to remove the second last column to eliminate the 10 second last column to transfer them to the third and the fourth columns there, contentious and non-contentious, or the fourth and the fifth.

But if that, that is in sense a technical exercise, as you asked us to take paragraph C and re-distribute them anyway. Perhaps we could take care of that in that way unless there are other issues, in the remarks column or in columns 1, 2 and 3.

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CHAIRPERSON: Mr Maree.

MR MAREE:

I've only this one comment. In the column of the contentious aspects, reference is made to duration of such measures which appears on later, so perhaps it could just be redrafted, because I came to the measures mentioned in non-contentious I was sort of at a loss to understand to what measures we were referring to.

MR MOORCROFT:

As I understand the present discussion, Sir, that will disappear anyway because it's no longer contentious. That will disappear because ...

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CHAIRPERSON:

Thank you very much, I'm just looking here in passing the remarks column, it reminds me of the comment made by, I think Mr Sizani, of the PAC in the Constitutional Committee that this committee has wasted so much time on equality and eventually says it must be draft, go to theme committee 4 for drafting, I see here there's nothing to be drafted for, no matter is referred to draft, we just say it goes to the other theme committee, I wonder if, anything can be done with the next blocks that we don't waste so much time when they eventually refer all these things to them, that we refer it before we waste a lot of time, I don't know if

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anything can be done there.

Because eventually it seems we are just doing the work of this other theme committee and nothing else. Can the technical committee help me in this.

MR MOORCROFT:

Yes sir, we the blocks, with the work of the blocks and the order of the blocks was divided up last year and was agreed to by the Constitutional Assembly. You might remember that in mid-February we had a special meeting to determine whether theme committee 1 should not allocate some of its work to other theme committees because there's any enormous amount of overload between theme committee 1 and many other theme committee.

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It was the decision of this theme committee and to the Constitutional Committee that the agendas and the blocks should remain with as they are and this is the result. We had it in our last 3 blocks, except for the block on constitutional supremacy, that's the only thing we've drafted up to now.

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THEME COMMITTEE 1
12 JUNE 1995

With our work, but the work of this committee as I understand it is in incredibly important from the point of view of the laying down of the general principals and the guidelines and I think that this the, that was the intention as I understand it of asking this theme committee to consider lofty big issues such as the economies, such as accountable government such as constitutional supremacy.

And when we come later on to the difficult task of drafting a preamble and a post amble, if we're going to have a post amble we, or if we are going to have a preamble but we are likely to have at least a preamble, that is the kind of place in which many of the things which have been considered by this theme committee could be expressed because they're just idealistic statements casting the framework and the structure within the within which the rest of the, and expressing the values within the rest of the rest of the constitution is to be expressed. And that is why there is the question mark, question mark mentioned in the preamble or the post amble. So certainly I wouldn't see this wasted time. 10 20

CHAIRPERSON: Thank you very much for such encouraging words. Thank

you ladies and gentleman, I think we have completed the report, we need the report to come back for approval or to re-approve the report as amended and we need a copy, can we get that from the theme committee.

UNKNOWN: (Inaudible) ... We need to rephrase the first point 1.

CHAIRPERSON: What's that.

UNKNOWN: (3 voices) 3.1, the contentious issue, if we can just refresh it. 10

CHAIRPERSON: Ja, I think they refer to, the amendments will be done by the technical committee, we've agreed, now what I'm saying is, this is a report which much go to the CC now I'm trying to ask whether are we satisfied with what we've amended, it should go but it can come back again.

Thank you very much, so the technical committee will make the amendments and then let it go to the CC while we get the report, the copy of the report as we did in the other instances. Thank you very much. 20

MR MOORCROFT:

Mr Chairperson, I take it that the final report will be made available to all members because not all members serve on the Constitutional Committee where that will have insight.

CHAIRPERSON:

Hopefully so. The secretariat promise me that, that will be the case. Thank you very much. Lets go to the next item then, if we are through with the first item. A few first items, the next item is item 6, tabling and discussion of submissions for block 6, representative government, see the extra documentation A to 7.

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The ACDP is the first person to tell us what is going on there, there's also a loose document which contains the NP and the PAC's submission, at any rate we'll come to them when we have them on the agenda, the first person on the agenda is the ACDP, are you ready ACDP.

REV MESHOE:

The ACDP supports the idea of making provision in the constitution for structures of civil government to be representative. Citizens should be able to vote for people who will represent their interests and the values they esteem highly. From this basis flows the following categories.

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Firstly in order to reflect balance and different opinions, there is need for more than one political party. This may be limited to 2 democratically opposed by this representing all the major interests as with the republicans the democrats in the US with provision being made for those citizens who do not feel that there aspirations are being properly addressed. To mobilize and associate themselves into another representative political grouping.

Secondly, the need arises to allow citizens to mobilize support for their particular legitimate interests. 10

CHAIRPERSON:

Just a minute. It seems many people are do not get to the portion when I see a lot of papers being shaken, in A.27 extra documents.

REV MESHOE:

No. Page 6, on the very document we had before this.

CHAIRPERSON:

Do you all have that? A.26.

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REV MESHOE:

Page 6, the same document we are using.

CHAIRPERSON:

Right. You may proceed.

REV MESHOE:

Ok, Secondly, the need arises to allow citizens to mobilize support for their particular legitimate interests both in an outside government, the ACDP therefore strongly objects to a member of any one political party using the national broadcaster unchallenged to inform the largest interest group in this country that they do not have to exercise their rights in terms of section 60 of , at 200 of 1993. Because their interests are being taken care of this lies in the right to assembly, demonstration and petition and does not bode well for the future.

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Thirdly, individuals and partisan government should be accountable to ordinary people, both politically and morally. We refer to the submission made on accountable government and incorporates those terms herein. This necessitates the need to elections, with secret ballots to be held on a regular basis every five years. We equally call, however, for the constitution to enable voters to remove office bearers from national, regional and local government following a petition supported by two-thirds of the particular

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constituency based on non-compliance with a code of conduct thrown up by all political parties collectively. Suffrage voting is at the heart of democracy. The right to make one's voice heard through the ballot paper vindicates the existence of a democratic system.

The ACDP therefore supports the right and further proposes that the constitution should lay down a minimum of 18 years as a qualification to vote. With every right comes responsibility and equally so with suffering. This is why we state that all citizens should have the right to vote if they are legal majors and conform to specific requirements that will show they did take up their responsibility as citizens. 10

This includes inter-alia, not having a criminal record for serious offenses, the ACDP feels that citizenship and suffrage go hand in hand. Ideally only citizens should be able to vote, however we acknowledge is shrinking of the world due to progress in modes of transportation and the like. There's also a need to stimulate the economy of this country by including the expertise or the holders of work 20

and residence permits. Because of the interest and investment into the economy, economic growth of South Africa.

The ACDP feels that they should be given the opportunity to vote. The emphasize in suffrage always is on citizens, with non-nationals being exemptions to that rule who may become entitled to vote after meeting certain requirements and that is duration of stay in the country.

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CHAIRPERSON:

Thank you very much, Reverend Meshoe. The ACDP's submission is officially on the table. May we get any people who would like to comment, Mr Cwele.

MR CWELE:

Just a brief comment, the issue of voting age being minimum age of 18 years, was it that on actual figures or is it based on what, maybe if you can just clarify us. 18 years, how did it.

REV MESHOE:

Well, there are many nations that take 18 as a person ready for adulthood and we believe that a young person at 18 is fairly mature enough to vote.

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CHAIRPERSON: Mr Momberg.

MR MOMBERG: Can I just ask Mr Meshoe, on top of page 2, a mechanism to remove an office bearer by two-thirds majority of people from particular constituencies, can I just ask the Reverend how will he define such a particular constituency.

REV MESHOE: We are proposing that a code of conduct must be drawn up by all political parties collectively, and if anybody coming from any constituency does not satisfy the people they are representing then the people in that area who are belonging to the parties that agreed on that code of conduct should from that constituency. 10

MR MOMBERG: Does that mean, does this imply that the ACDP will have in the new constitution constituencies and not the list system as we have now. Because as it stands now we haven't got constituencies, do you want to change this in the new constitution. 20

MR MESHOE: Propose that.

CHAIRPERSON: Ja, any other comment on the submission by Rev Meshoe.
Ms Hangana.

MS HANGANA: Thank you Chairperson. On Page 7 and in the second paragraph where the ACDP speaks about suffrage in terms of the minimum age required, in order for one to qualify to vote. One has come across instances where 16 year olds have actually married women, and wouldn't you regard such persons, I don't say they're children, once they get married they are no longer children to me. Would'nt you regard such persons as being legal majors, or being responsible enough for becoming a wife for instance or somebody. 10

REV MESHOE: I've heard of people that were married at 12 years of age. And because a person is married at 12 years of age does not necessarily make that person mature. The fact that we even in this country drivers licences are issued to people at 18, we believe that's the correct age to take.

CHAIRPERSON: Any other comment or question, on that? Mr Lekgoro. 20

MR LEKGORO: Mr Chairperson, I why is that, or what do the SADP, ACDP

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would they object to the age 16 if it was to be suggested as a voting age.

No. 2 is just clarification on, are you saying here people with criminal records for serious offenses should not be allowed to vote even if their being made their punishment for that.

REV MESHOE:

We believe taking the right from them to vote should be part of the punishment. If people are perpetual, no people with serious criminal records should not be given that right, we believe.

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CHAIRPERSON:

That whatever is the question. I agree that we can punish such a person for instance if he is still serving a prison sentence, but after completion of such a sentence.

REV MESHOE:

No, after completion, Ja, ja it's different if after completion of sentence.

CHAIRPERSON:

Sister.

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SISTER BENNETT:

This is merely just a moral issue from maybe from a

Christian point of view, is there any time when a person is being converted, what does that mean. In terms of a sinner being converted, maybe there's a definition that Mr Meshoe can tell us.

REV MESHOE:

The honorary member needs to be specific, what does she really wants to know, in what context does she want me to answer the question because if she wants me to tell her how to be converted, I can tell her that.

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SISTER BENNETT:

Ok, I'm trying to say you are specifically saying that a person who has a criminal record must never ever be given a right to, to be voted to, to a position, but we are saying that there is a process of life where a person changes to be converted as to actually to become a better citizen after having those records that were,

REV MESHOE:

Ja, I answered that question as Mr Lahore address it to me, I said when the person has, completed the sentence, when a person has been released after serving the sentence, that person can vote.

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MS PIKOLI:

Oh no. Can I just point, I think what the ACDP was not clarifying to ask, whether the person can actually vote and be voted for, I think those are the two differences, I think that is what Sister wants to know. Whether the person can actually hold public office.

SISTER BENNETT:

After he's been converted.

MS PIKOLI:

After he's been converted and served his sentence.

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REV MESHOE:

I think I will have to come back to you on that one. If you are to move somebody who served a sentence whether that person should stand for elections or not I have to come back to you on that one because if the people democratically want to elect that person, I'll come back to that one. I propose 18, ACDP proposes 18, not 16.

MR LEKGORO:

A question, If 16 was to be suggested by a party, would you negotiate it or would you reject it outright.

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REV MESHOE:

We'll negotiate.

CHAIRPERSON:

Ok, any other question, any other comment on ACDP's presentation. Thank you very much, then we can go to the next presenter on our agenda, that is the African National Congress, Mr Cwele.

MR CWELE:

Thank you Mr Chairperson, maybe on page 8, second sentence, if you can just put after submission preliminary, because this is the preliminary submission of the African National Congress. Then on page 9, page 8, ANC preliminary submission, this all from page 8, page 9, on representative government, there shall be, there shall be re- elections or parliament at least every 5 years, based on proportional and constituency representation in such a manner that the representation of parties in parliament reasonable and equitable reflect the electoral support.

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There shall be a common voters roll and a universal other suffrage. B. The details of percentage division between constituency and proportional representation is a matter to be spelt out in legislation. C. The detail of constituency definition is a matter of discussion under theme committee 2. No. 2 Suffrage, there shall be multi-party democracy by

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bi-elections and universal other suffrage.

The minimum voting age shall be determined through the act of parliament. Citizenship, If you can correct the first sentence, delete the first sentence, we start with all South Africans must be entitled to constituency and stop at the comma citizenship.

There shall be a common South African citizenship. Full citizenship may be acquired by birth, descent and delete marriage because its covered, or nationalization because marriage is covered by nationalization. So it should read as follows, the first sentence, there shall be a common South African citizenship, full citizenship may be required by birth, descent or nationalization, no citizen shall be (inaudible) ... pride of his citizenship though legislation may be set, may set out (inaudible) ... in which citizenship may be lost. Parliament shall not be prohibited from legislating for an extension of citizenship for specific categories of persons or people. Thank you.

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CHAIRPERSON:

Thank you Mr Cwele. The ANC's presentation is on the

table. Any comments. Mr Maree doesn't want to agree.
Mr Maree lets hear why you don't agree.

MR MAREE:

No, I just wanted to know, Chairperson, this is not preliminary submission, are we going to receive a final or a second preliminary or whatever at some stage. Because it all depends if this isn't a final submission which I believe according the presenter it isn't then there's actually not much point in even trying to explore this one because we should rather wait for the final one to come.

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CHAIRPERSON:

Mr Cwele? I think a preliminary is a good as the final one. It should start at the preliminary to clarify issues if you have any. Mr Cwele.

UNKNOWN:

Why don't you hide him, Mr Chairman?

MR CWELE:

Putting preliminary doesn't mean that it shouldn't be discussed. This is a document we sent for discussion, which may mean there may be other, subsequent submissions on top of this, and I think we've agreed on that principal. That we are not bound by any submissions.

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But all that we are is that there may be, we are not just saying that they shall be, there may be other submissions on top of this, which doesn't preclude any discussion on that.

MR MAREE:

Then may I ask a question? In the paragraph , in paragraph 3 under citizenship, it said that no citizens shall be arbitrarily deprived of his citizenship through legislation, though legislation may set out circumstances in which citizenship shall be lost, you see, this is also my tenth language I'm reading. Would it be possible, Chairperson, 10
for the ANC to give us 1 or 2 examples of circumstances that could possibly lead to a loss of citizenship. Just that, I just want to get clarity on that. I haven't got clarity as to, and I don't understand actually what is meant there.

CHAIRPERSON:

Mr Cwele.

MR CWELE:

Ok, but maybe first of all I should correct there, that his or her citizenship, it is just a technical thing, what we mean there, I think the question there is (inaudible) ... that there 20
should not be, I think in the past and at present, with the present situation, sometimes the minister or the government

in charge may take other privileges to deprive people of citizenship, or take citizenship from the people, take the citizenship away from the people, at the present moment people may lose citizenship before, and we lost citizenship because we are blacks, we are black, and that was arbitrary decision of the regime of the past and so we saying all those things shouldn't give anybody arbitrary power to just remove all people who are South African, who have been given South African citizenship should retain their citizenship and only be removed under special conditions which we spelt out 10
in the legislation. That's all.

CHAIRPERSON:

Mr Kekana.

MR KEKANA:

I think it's, It, I want to give, try, attempt to give a clear example, for instance, when Bophuthatswana was given an independent, I happened to be one of those people who speak Tswana as a first language and we thought consultation I was regarded as having lost my citizenship because Bophuthatswana was given independence, on my 20
hand you are going to find people in the Caprivi for instance, no not Caprivi, what is it, this strip in Namibia that

has been given to be part of Namibia. Ja, that may want to return South African citizenship and those who want, some may well want to be Namibians now, you know.

So through legislation, legislation should be able to, what we are trying to say is that legislation should be able to cater for those instances. I hope this examples clarify Mr Maree.

DR NZIMANDE:

Ja, maybe in fact taking on from the last, this specific example might be a situation which we have not discussion which we will have to resolve, what happens if a person acquires the citizenship of another country, for instance. You know, that would be one very clear example which we will have to deal with. We might then say as a country, once you acquire citizenship of another citizenship of another country, you automatically lose your.

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CHAIRPERSON:

Mr Van Deventer.

MR VAN DEVENTER:

Mr Chairman, is it possible that the current regime can tell me what they meant by parliament shall not be prohibited from legislating for the extension of citizenship for specified

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categories of people.

CHAIRPERSON:

I see, which is the current regime that must reply there. The new Pretoria regime. There is a question. African National Congress. Mr Chikane.

MR CHIKANE:

Ja, if I understand the question very well, is that, there's going to be a lot of other people who are interested and who are of interest to South Africa, for instance in the past we know that we, we used to rely on certain people with technical know-how and because of that those people qualified for a special citizenship, we know this happened, people who are in Armscor today as experts and so forth. We say Parliament shouldn't be closed to, can be able to take to legislate in case of South African interest.

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CHAIRPERSON:

Dr Schoeman.

DR SCHOEMAN:

Chairman, I would like to know what exactly is meant by adult suffrage. Because if I listened correctly that some people want to make 14 year olds adults, others want to make 16 year olds adults which the world regards 18 year

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olds as qualifying for adult suffrage, with the exception of 1
or 2 countries.

CHAIRPERSON:

Any response.

MR BLADE:

Can I reply, Chairperson, I dealt with it as a social category
it's not a natural category, it's socially defined. So if we
decide 16 to be voting age, it means that we are saying 16
years is adult so its a social and a political category if you
like. Its not prefixed you know, the fact that the world or
many countries in the world practice 18 does not mean then
that 18 is under any circumstances naturally adult. So it will
depend what we finally agree on.

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MS PIKOLI:

I want to add on that. Comrade chair, just to add on that,
to what Dr Blade has just said, when those countries in fact
took a decision to say 18 is an adult, there were
circumstances that it forced them to do so, because children
were sent, whether 18 year olds and 17 year olds were sent
to the war, therefore they had to resolve that and say that
those children who were then 18 were adults and it was not
a matter or them naturally deciding that 18 would be the

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age for voting, but circumstances had forced them to actually not contradict their own policies of who is a child, you know how do you determine a child, if you send an 18 year old to war, that 18 year old is no longer a child. I think it has to actually apply in our circumstances in South Africa, how we define an adult in our country.

UNKNOWN:

Can I just pick up on that Chairperson, on that point.

CHAIRPERSON:

You may.

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UNKNOWN:

I think it's important to, this linkage between being old enough to fight for the country and being old enough to vote in a country, by definition and it really means if you say 16 is old enough to vote, then 16 must be old enough to fight also. Would you then accept that you send 16 year olds off to fight in a war, to be killed. I think making that sort of linkage then you've got to consistent. Take it right through.

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CHAIRPERSON:

Are you raising a point of order? Raise it effectively, if you do I'll give it the platform. If not then.

MR CHIKANE: Because Mr Chairperson, I've got a feeling that this drags us to discuss the age issue which is.

UNKNOWN: I withdraw Chairperson, I'm happy to withdraw, I accept it, we're getting irrelevant now.

CHAIRPERSON: Thank you very much, any comment.

DR SCHOEMAN: Thank you, Mr Chairman.

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CHAIRPERSON: Oh, Mr Schoeman.

DR SCHOEMAN: I actually just wanted to know how, what the thinking was and I don't think we must try and debate this issue, there are many points we can raise in a debate.

CHAIRPERSON: Do you still want a response, or you have heard what the thinking was. It seems, they say your presentation is very good, any other comment. Ja, I take the point, any other comment, if there's none then we go to the next item. Thank you very much. Our next party in the queue is the DP.

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MR MOORCROFT:

Thank you Chairperson, I refer honourable members to the same document, that's the extra documentation, A27 to page 11, under the item Representative Government, what I've done Chairperson, I have simply drawn attention to the fact that they are 8 constitutional principals to which we are bound, those constitutional principals emphasize 10 aspects which I've enumerated there from a multi-party system down to a public service broadly representative of all South Africans and we are in full agreement, we are happy to be bound by those principals.

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I then further point out that the transitional constitution itself further provides for measures which spell out in detail certain measures relating to representative government and again which, with which we are perfectly comfortable, and these are clause 6 the franchise, clause 21 political rights, clause 39 elections, then we do come to one where we would suggest an amendment and that is in clause 40, composition of the national assembly.

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Here the Democratic Party would argue for a reduction, Chair, in the number of members from 400 to 300, and then

in clause 48 which deals with the composition of the senate here we would argue for a reduction in the number of senators to 63, that is 7 from each province then from clause 77 through to 179 again we are perfectly comfortable with what is contained in the transitional constitution.

That takes us through then to citizenship, agenda 8 and no. And again I follow the same procedure here, I point out that the transitional constitution deals with a number of sections, which I've enumerated and again we do not find ourselves at variance with these provisions of which the most important is that there shall be a South African citizenship, that every person who is a South African citizenship, citizen shall, subject to the constitution be entitled to enjoy all rights, privileges and benefits of that citizenship and shall be subject to all duties, obligations and responsibilities of South African citizenship as are accorded or imposed upon him or her in terms of the constitution or an act of parliament. 10

That then takes us on to agenda 8 and 9, suffrage. Now again in respect of suffrage, the constitutional assembly is required to give effective constitutional principal 8 which is that there shall be representative government embracing 20

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multi-party democracy, regular elections, universal adult suffrage, a common voters roll and in general, proportional representation. In order to achieve the above in respect of universal adult suffrage, the Democratic Party believes that the constitution must contain the following provisions, the first is that national citizenship should be a pre-requisite for the franchise at national and provincial level, we don't consider that it should be a pre-requisite for the franchise at local level, but certainly at national and provincial then we say that there should be a minimum age qualification and that should be 18 years or older, that the franchise should be subject to disqualification as prescribed by laws regulating elections, referenda or plebiscites, that such disqualification should be described in the electoral act rather than in the constitution and that provision should be made for the holding of referenda, plebiscites, but that this provision be subsumed under the electoral act rather than the constitution. And that is all that we have to say. Thank you Chairperson.

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CHAIRPERSON:

The DP's matter is on the table. Mr Chikane.

MR CHIKANE: Wouldn't the reduction of numbers of members of the assembly eliminate participation of the DP in the .

MR MOORCROFT: I'm caused some crossfire here.

CHAIRPERSON: Would the DP allow another DP to answer questions?

MR MOORCROFT: I'm terribly sorry Chairperson.

CHAIRPERSON: Right, It was more on a lighter note to say, wouldn't this 10
exclude the DP from participating in parliament, because if
we reduce 400 to 300 it means you wouldn't be represented,
if what we have is anything to go by.

MR MOORCROFT: Chairperson, we have always put the interests of the country
before the interests of the party.

CHAIRPERSON: Any other question or comment. Mr Lekgoro.

MR LEKGORO: Yes, the same question that we asked the ACDP on the 20
issue of 18. What was your reasoning behind 18 and would
you really violently object anyone who suggests 16.

MR MOORCROFT:

Chairperson, no not violently, but though we would argue, we are not a violent party, chairperson, we would argue that it is the general recognised norm, not that would be the be all and end all, but it is the age, minimum age, for example, other requirements in society, for example, drivers licences, I don't think we'd like to see 16 year olds driving motor cars, 18 year olds do enough damage as it is in their motor cars, we believe that, and the point that I raised just now about fighting for the country, 18 year olds we would deem them old enough to fight for their country, they're old enough to vote. We don't think we would like to see 16 year olds, they are not considered mature enough, we would not to send them to war and we would also not consider them mature enough at that stage to vote. So those are the reasons really.

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CHAIRPERSON:

Any other comment. Mr Cwele.

MR CWELE:

Just on the issue of the norm, would the DP also consider that it is not a norm, the 18, it is just the present trend and that because the norm before was 21 years and after the wars and other social events, like Comrade (inaudible) ...

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shed and forced them to come to 18, so that is just at present fashionable trend, other than the norm.

MR MOORCROFT:

Chairperson, yes, I would agree there's nothing magical about the age of 18 and that as the younger generation has grown more mature, so perhaps it might be that in future 16 year olds will be mature enough to drive motor cars, to marry. The age of consent as well, I mean, we understand about that as well, the age of consent do we consider that, you know, old enough, and it could be that it could change, but at the present moment we think that 18 is a good age and we would stay with it.

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CHAIRPERSON:

Last question, alright.

MR CWELE:

Maybe to the DP and our experts, they talk of older and where there is any upper limit or (Inaudible) ... You can reach 400 and still vote (inaudible) ... To the expert, is there any circumstances is where there's a parliament or you are aware of voting.

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UNKNOWN:

It was included in the information that was given last week

on the research, the only one that we could find was Brazil and there was no cut-off actually, in fact, Brazil as you might recall was one of the 4 countries that did allow people who are below 18 in age to vote but it was compulsory between the ages of 16 and 70 years but between 16 and 18 years and older than 70 you didn't have to go and vote, it wasn't compulsory to vote, so that, but that's the only country that I am aware of that have a cut-off and upper cut-off limit and it's not an absolute it's a relative cut-off limit.

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CHAIRPERSON:

Are we through with question or comments. Thank you very much, then lets go to the next item. The Freedom Front of South Africa.

DR MULDER:

I like the South Africa, you can put from the Volkstaat as well if you want. Sir, our submission is here but it has not been sent around yet. To be honest, I think the tempo we are working all of us are stretching our resources at this moment and if the ANC's submissions are temporary, you must see if ours (inaudible) ... is a bit late then it's better than theirs you see. So I make copies and afterwards may

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give it to the experts and maybe if it can be circulated then afterwards. First on the representative government, can I just read it then or what?

CHAIRPERSON: Or perhaps it would give you a chance while the National Party and another continue then you come last, perhaps.

DR MULDER: Is'nt there to make it, you want me to go and make copies.

CHAIRPERSON: So that we have copies while you are reading. 10

DR MULDER: Well, we can try and do that, there's a lot of people, tell me how many copies.

CHAIRPERSON: Well, perhaps (inaudible) ...

DR MULDER: There's 4 pages here.

CHAIRPERSON: Can we do copies.

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UNKNOWN: Chairperson, may I suggest that we grant Dr Mulder's request and allow him to read it and then we can listen

carefully because it's a small party and I know the party's got limited facilities and I think its unreasonable to expect him to reproduce the documentation.

CHAIRPERSON:

I can see that campaigning, its ok that the "Klein boetie met die ou boetie bietjie volg". You're allowed, Dr.

DR MULDER:

I won't react to that comment but thank you for that. First on the representative government and I'm just going to take the most important parts out. For present purposes representative government can be equated with democracy. In this regard we refer to 2 descriptions of democracy and then provide a definition of our own in the context of the position in South Africa and then we quote the Oxford Companion to Law dictionary 1980 on democracy, I'm not going to read that, if you want me I can read it, their definition of democracy and the Chamber's 20th Century dictionary 1972 and they've got the definition, maybe I must read that one, it's short.

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"Democracy a form of government to which the supreme power is vested in the people collectively and it's

administered by them or by offices appointed by them. The common people, a state of society categorized by recognition of equality of rights and privileges, political, social or legal equality".

And then we tried to word our own, as we say, democracy as a general concept is a system of government by all the people collectively, usually through elected representatives as opposed to direct democracy. Based on the recognition of equality of opportunities, rights and privileges, tolerating minority views and ignoring hereditary class distinctions.

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The requisites for a democracy are the following:

A: the government being ultimately responsible or accountable to the majority of the grown members of the political community.

B: The general possibility of alternative government, example, by means of regular elections and C: universal franchise. By virtue of the fact that democracy in itself is no guarantee against abuse of power or what we call the tyranny of the majority, the concept naturally implies that

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there should be a limitation of government power so that certain fundamental rights of citizens are not subject to the will of the majority.

Such limitations should be brought about by, inter alia, the spreading of power by means of various checks and balances in the constitution. This will give effect to the principals of the rule of law according to which the government itself can be held accountable not only politically but also legally.

Because the democratic model developed in the relatively homogeneous societies of the west, the general concept of democracy as expounded above must necessarily be made to fit hetrogenius societies in which minority interest requires special protection. We feel strongly about that. In this regard the right of self-determination of committees, of communities is of such importance that it has been entrenched in the constitutional principals that must be complied with in drawing up the new constitution. 10

And then also the Volkstaat's council's report and proposals are still to be discussed and fed into the system. Then we say, constitutional principal 14, for example, requires the 20

new constitution to make provisions for participation of minority political parties in the legislative process in the manner consistent with democracy. Constitutional principal 17 provides there shall be democratic representation at each level of government.

As far as the representation is concerned, if they go to citizenship then the next one, the acquisition, loss and restoration of citizenship is often dealt with in legislation instead of constitution, of a constitution. The Freedom 10
Front accordingly has no objection to a provision in the new constitution corresponding with section 5 of the traditional constitution, read with section 20. The constitution should therefore contain a provision prohibiting the legislative of depriving a South African citizen of citizenship, or at least of doing so at arbitrary. In a latter event the constitution should specify all possible grounds for such declaration.

In so far as legislation may be authorized extending South African citizenship to a specified categories of people this 20
should always be subject to overriding provisions relating to the franchise. And then, last one, franchise or suffrage. We

are of the opinion that only South Africans citizens should have the franchise. A provision such as section 6.A.2 of the traditional constitution which confers the franchise also on non-citizens, should not be re-enacted in the new constitution. It was a special provision justified only by the special circumstances of the first democratic election in South Africa, a unique transition to democracy. Then on the age, the Freedom Front is opposed to any provision in the new constitution that would authorize parliament to determine the minimum voting age. In this regard, 10 constitutional principal 8 requires universal adult suffrage and then we see adult meaning adult, a minimum age for voters has overwhelmingly been accepted by the world committee to be 18 years, including the democracy of the United Kingdom, United States, etc.

We also submit that the contemplated periodic elections should, in accordance with the provision of article 25 of the international covenant, covenant, on civil and political rights be held by secret ballot, guaranteeing the free expression of 20 the will of the electors. The Freedom Front also submits that suffrage in the context of the constitutional principals

implies that there should be separate voters rolls for the different provinces, apart from a common voters roll, the same applies to franchise at a local level. And that's the call of it all.

CHAIRPERSON:

Thank you very much Dr. Mulder. The Freedom Front's submission is on the table. Any comment or questions? Sister.

SISTER BENNETT:

Maybe for an in depth comment and , it's better when one has the paper, because reading you just really read and not assimilate the whole paper to understand it inasmuch as to respond. Ok.

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CHAIRPERSON:

Mr Green.

MR GREEN:

Thank you Chair, the question that I would like to ask is a hypothetical one. Let us assume the idea of a volkstaat in terms of the right of self-determination, how would one be able to justify suffrage or the right to vote in a volkstaat as well as in a broader South African state without diminishing the rights of other citizens.

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DR MULDER:

I think the whole argument is on how you perceive a volkstaat in the end of the day. If you read through some of the reports at the moment, at the arguments that's going on and you if you look abroad how minorities are being treated and self-determination has been treated and specifically looking also at cultural ways in Europe it's quite possible to have it on both sides in the sense that the Belgium for example, if I may use an example, there's a common voters roll for the people of Belgium but then there's also a specific one for the Flemish, its a voluntary voters roll there, if someone feels strongly about being Flemish he registers on that one and there is elected certain cultural whatever councils that regulates culture, language and education etc, in Belgium and they've got cultural autonomy as far as that's concerned. This can be, went even further, if we talk about provincial voters rolls, we don't think it's all that far-fetched in the sense that at the moment we've got local voters rolls that is, so it's just as, its very easy to from the local voters roll just add together and get a provincial one.

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And it might be necessary to vote, for example, in a

province, for a capital or something like that and I think its' quite democracy at the end of the day are they satisfied with this, with the referendum or whatever. And if that is possible within a province, surely it can be extended then to a whole idea of a volkstaat as well on those issues or those functions that will be relegated to the volkstaat.

CHAIRPERSON:

Any other comment or question? Mr Cwele.

MR CWELE:

Maybe he was reading to fast. I didn't get actually what your final proposition on extension of franchise to non-citizens, you say you are against, or any way putting it a regulation or act of parliament.

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DR MULDER:

Ja, the point is I try to do it, I'm always fast in Afrikaans and then I have trouble in English to be fast as well. The problem is that we've believed that it was only temporary, the whole idea of the extension of voter rights to non-citizens in the traditional constitution, if I'm correct, I think its section 6.A.2. does that, so in that sense we believe that it should not, is not necessary in the final constitution to extend voters rights to non-citizens, we think it must go with

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citizenship.

CHAIRPERSON:

Any other comment? Since your presentation was so nice that they don't want to ask any further questions. Thank you very much, lets go to the next item then. The National Party. Or the New National Party.

MR MAREE:

Well I'm still the same but the party is, the same man but the party is different. Chairperson, we have submitted rather lengthy documentation, I'll try to run through it as quickly as possible.

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First thing in regard to representative government, we say it is one of the most fundamental characteristics of a democratic system and one of the most basic principals with which the final constitution must comply. It took centuries to develop until today representative government is ensured through direct, direct elections by the people of the representatives in the government. Representative government assumes the entrenchment of principals such as universal adult franchise, a common voters roll, freedom of political choice at activity, free, fair and regular elections, a

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multi-party system and a fair and suitable electoral system. The constitutional principals already contain these principals. Traditionally representative government was associated with the legislator only, on the assumption that the executive shall be appointed from the legislative chair, specifically from the majority party and thus indirectly still be the representative of the people. The 20th century has shown that this is an oversimplified view in modern societies.

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Firstly, there's been a manifest transfer of authority from the legislator to the executive. The executive is nowadays the most powerful and prominent branch of government.

Secondly, the phenomenon in western European democracies that more often than not, no party obtains an absolute majority has lead to the emergence of coalition governments in which more than one party serve in the executive.

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Thirdly, the establishment of the modern concept of the state in much less homogenous societies than ever before

especially in the less developed part of the world has lead to the formation of governments on the simple majority basis which to often weren't at all representative of those other societies. In view of these facts the principal of representative government should apply both to the legislator and the executive but the party has made another submission to the relevant theme committee on the composition of the executive, so we needn't argue it here.

I have in any case mentioned it when I spoke to a previous submission of ours. As far as the electoral system is concerned, constitution principal 8, expressly prescribes a system of precaution, proportional representation, this is not a contentious matter and the party has already submitted a detailed paper in this regard to the relevant theme committee. Although the principals underlined representative government are stated generally, and they obviously allow for flexibility in respect of their detailed implementation, it would be impossible to depart from the essence of those principals, for example, the type of proportional electoral system could be determined but it would be in breach of the constitutional principal to adopt

a simple constituency system, and there are also other examples. In regard to participatory democracy, we say representative government doesn't stop at regular elections for decision making bodies, but it extends to the continues involvement of the electorate in the decision making process.

For this reason, it's necessary to provide sufficient mechanisms and opportunities for the people to participate in the parliamentary process. Much has been done already, 10
for example, in the case of prior publication of bills, but more can still be achieved, in this regard the recently adopted standing orders of the Gauteng legislator which makes express and extensive provision for public participation and for the presentation of petitions could serve as a convenient point of departure. In order for the public to enjoy an informed involvement it needs information, all decision making processes at legislative as well as executive levels should be aimed at efficiency but also at providing the public with as much information as 20
possible. We are in favour of optimum public participation, but we don't believe that regular referenda as a standing

constitutional feature of our decision making process would be feasible.

Referenda on a regular basis would be too costly and difficult in South African geographical, demographic and other circumstances. Now in regard to citizenship, we say that the principals of the present section 5, sections 5 and 20 should be retained. We submit that the acquisition of citizenship by birth within the national territory should be guaranteed in the constitution in the constitution. Other ways of 10
acquiring citizenship should continue to be prescribed by ordinary legislation. It is furthermore submitted that the reasons supporting the entitlement of non-citizens to vote which existed initially are no longer valid and that political rights should be restricted to citizens only.

Provisions should however be made for persons with rights to permanent residency to acquire full citizenship if they are currently not able to do so. Provisions restricting eligibility for political or public office, to citizens only should be 20
retained. And then lastly, in regard to suffrage, its a loose document and the issue of suffrage is dealt with on page 3,

I want to deal with the last 2 sentences of paragraph 3.1 on that page, because I would like to make a change in it. Its untenable we say that a person who holds right to permanent residency should have the, in inverted commas, advantages of citizenship but not its disadvantages. It's therefore submitted that citizenship should be a prerequisite for the franchise in respect of and as it stands here it says, national and provincial levels of government and would like to change that in respect of all levels of government.

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And then I would like to withdraw paragraph 3.2. In paragraph 3.3. international practice supports the notion of age restrictions and is therefore submitted that a constitutional text should regulate the matter, in this regard we differ, of course, from the ANC which says that it should be dealt with in ordinary legislation. Other minimum requirements for example, citizenship in respect of the right to vote at national and provincial level, also the local level, should also prescribe, be prescribed in the constitution.

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It is submitted that a minimum age of 18 years be prescribed in the constitutional text. It's also submitted that

grounds for disqualification should be incorporated in the constitutional text. This would ensure uniformity and would remove any perception of manipulation of requirements by political parties.

It's submitted that the present grounds for disqualifications contained in section 26 of the electoral act should be retained in principal except for paragraph D thereof which should be amended to include any convicted person, irrespective of the crime committed or the sentence imposes. 10
Of course, I would like to pre-empt the question that I know is going to be asked, of course after a prisoner has served his or her sentence, they should become eligible to vote and to stand for public office and so on. Subject to the decision in principal on the question of referenda, it's submitted that requirements in respect of suffrage with regard to referenda should be the same as those required in respect of elections.
Thank you.

CHAIRPERSON:

Thank you Mr Maree. There comes now, on the table, the 20
submission by the NP. Dr Mulder.

DR MULDER:

Just a question of the referenda. I see 3.5 says what the requirements are but on the other side you said no for the referenda, is it, I suppose that means on all issues or it is not really quite clear, are you totally against referenda or on under certain conditions.

MR MAREE:

No, what I was saying, Chairperson, is that, was that we are not in favour of referenda as a standing constitutional feature. We are not against referenda, per se, but on a continuous basis like it's done, for instance, Switzerland.

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CHAIRPERSON:

Any other comment or question. Mr Cwele.

MR CWELE:

3.5, where you are talking citizenship by birth, that it should be a constitutional right, does that include citizenship by birth irrespective of the legal status of the parent.

MR MAREE:

Yes, I would say so, yes. Ja because the mere fact that a person is born in the national territory of the country should be the reason for the reason for granting citizenship to that person.

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CHAIRPERSON: Reverend.

REV MESHOE: To follow up on that question, if people can choose to, from around the world, can choose to come and bear children in South Africa, they come few months, maybe at 8 months pregnant and those children are born in South Africa, should all of those children automatically be South Africans.

MR MAREE: You can just say the Mozambique children, nothing more than that.

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CHAIRPERSON: It's page 4, 3.5.

MR MAREE: I think this is something that once we enter into a, the real negotiations should be negotiated, because I think it was never the intention that we should explore each and every different issue in it's fullest detail. So that's something that will have to be explored once we start negotiating this.

CHAIRPERSON: Mr (inaudible) ...

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UNKNOWN: Thank you, May we ask for some clarity in relation to

paragraph 3.4 on page 4? The last two lines. It's contemplated that it's one of the grounds for disqualifications, if any convicted prisoner, if there is a prisoner who is convicted, irrespective of the crime committed or the sentence imposed that would disqualify such a person, assuming that a person is convicted for a traffic violation where there is an alternative of a fine or imprisonment and the fine cannot be paid notwithstanding how nominal the fine may be, is it contemplated that if the person is in prison at the time of the elections being held 10 that, that person would be disqualified.

MR MAREE:

I think this should be read together with the relevant section and I think then it should become clear that it's a, any person who's convicted of any crime, while that person is in apprehension, while that person is in a prison, should not be entitled to vote.

UNKNOWN:

So the answer would be yes, it would include a traffic offender. 20

MR MAREE:

Ja.

CHAIRPERSON: Any other comment.

DR MAREE: It is unlikely that a person who is convicted for a traffic offence will be sitting in the prison on the date of the elections.

CHAIRPERSON: Oh, you don't know. Any other comment or question. Mr Green and then Mr (inaudible) ...

MR GREEN: Chair, just to assist the National Party, wouldn't it be correct 10
then to ask them that there should be a difference between
a misdemeanour and a crime. And that difference should
apply to the right, the vote or suffrage, because a traffic fine
is the misdemeanour and the criminal offence, of course, is
the other serious one wouldn't that perhaps be a more
correct approach?

MR MAREE: We I think that's an approach that should be taken note of
by Mr Hussein.

CHAIRPERSON: Let me just have (inaudible) ... first then Mr Hussein. 20

UNKNOWN:

Mr Chairperson, I want to find out from the Nationalist Party what prompted them to give ID's or Passports to children in their heydays, and what will prevent them from allowing the very same children that they forced to carry ID's during their reign of power to vote today.

MR MAREE:

Well, that's an issue that I am not, I'm not an expert in, I don't know much about it and it's something of the past I would prefer to not to reply to that. Because if, should I try to reply to that I might mislead the house which I won't like to do.

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CHAIRPERSON:

We'll have Mr Zondi first, then we'll come to you, Mr Dyani. So you want to reply. Alright, reply then, then Mr Zondi will come after you.

MR DYANI:

Mr Chairman, I don't know whether, whether the facts is correct that was put on the table now, but if it is correct I think the motivation was the same then for what happened last year through the ANC.

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CHAIRPERSON:

That is unclear.

MR DYANI:

That is not unclear sir, if they accused previous governments of giving identity books to children to use them in the elections, I don't know whether it happened, really I don't know, but if it happened I don't want to say the gentleman put the wrong facts on the table but if it happened I think the motivation for that was exactly by issuing voting cards to people who are not South African citizens.

CHAIRPERSON:

Order, order, order.

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MR HUSSEIN:

Can I clarify, chairperson, I took my ID when I was 16 and I think many people were forced to take ID's when they were 16 years of age,

DR MULDER:

I'm sorry I didn't follow the member when he initially put his question, of course at the age of 16, if I remember correctly from previous discussions that we had, and, perhaps Professor Corder could bear me out on this one, it was said that a person becomes a citizen at birth, but certain rights accrue to that person at the age of 16, I can't remember all the facts, the fact of the matter is that it's been so that ever since I can remember, people were

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entitled to the issued with an ID document at the age of 16, I think that was just a practical consideration. But I, that was long before my time and I'm not an expert in that regard, and that is why I didn't want to.

CHAIRPERSON:

Just to follow up, because I promised Mr Hussein to come to follow up on this point, right.

MR HUSSEIN:

It is actually wrong, it must be corrected, the ANC didn't take over the department of foreign affairs until we won the elections so when people registered for votes, it was not under the ANC government, and I think that need to be corrected for the record.

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MR DYANI:

It's very interesting that you have no influence on the IEC.

CHAIRPERSON:

Alright, let's leave the political battle alone, alright, alright, let's come back to the theme committee and leave the political battle. Mr Zondi, come in.

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MR ZONDI:

Thanks, I just want to raise a meeting which is somewhat more mundane than the debate that seems to have

precipitated at this stage, and that's in relation to felonies and so one, our legal system does not admit of the distinction between felonies and misdemeanours and so on, which is what the American system has, so we're not going to be able to rely upon that to draw any distinction in relation to convicted prisoners and voting.

CHAIRPERSON:

Any other comment? I beg yours, Are you coming in, Thank you Mr Cwele, come in.

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MR CWELE:

I am just asking maybe it's just a general policy taking into account that the Nationalist Party encouraged people who were non-citizens to take citizenship to vote in the last elections, what's the position of the Nationalist Party to our citizenship and the will they, for instance in legislation later on, agree that people who use franchise of other country lose the citizenship of South Africa.

MR MAREE:

Those people left, all of them, hey.

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DR SCHOEMAN:

That's something I would also prefer to engage in argument in, I would prefer to engage in once we get to negotiating

stage.

CHAIRPERSON:

Thank you very much, bilaterally in particular I hope. Are we through with questioning here. Thank you very much. Then we go to the next party. The PAC. The PAC has submitted, it's submission is on the table together with the National Party's document outside of this documentation, I don't whether the parties have read that, we'll ask the secretary in order to not to be delayed, perhaps we can ask the secretary to read this document, to read it for us 10 because it came late and thereafter we can, if there are questions then we can postpone it for the questioning, if we don't have questions, then we can finish up. Can we have somebody reading it. Whose very diligent and good at reading? (Inaudible) ... Because the parties did not read it, I hope, or have you read it.

DR MULDER:

We've scanned it, yes.

CHAIRPERSON:

Oh, well I see that the parties have read it, any questions. 20
Oh, no questions, right, right. Thank you very much.
Who's going to ask, alright ask the question then.

UNKNOWN:

No, it's not a question, what actually happens here in the last page, that is the second page of the submission, all they say here is all citizens of age shall be entitled to vote and be voted for without regard to any other factor except for that of their citizenship. I really don't know what it means. Then nobody will. There's no age. It was wrong of the Chairperson to say we must discuss this document.

CHAIRPERSON:

Whenever a submission is to be discussed it's a standing procedure. What does the houses say, do you want it to be discussed, so you let the report go, wait a minute, do you want the PAC then to be called , to come to the next meeting while you let the report go out together (inaudible) ... as it stands.

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MR MAREE:

Chairperson, I would suggest that we, that we decide today that all the documentation should now be dealt with by the ad hoc committee, in consultation together with the experts and that it should be forwarded to the, to the Constitutional Committee and if the PAC would like to raise any points there or would like to, to clarify any point, that would be the venue for them to do so.

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UNKNOWN:

They hope, they had due notice of this meeting, they knew that we were going to discuss it today, it was on the agenda so, they cannot they cannot expect us to retie their whole process because they were not here today. .

CHAIRPERSON:

(Inaudible) ... by saying, refer to the cc you mean that they must compile the report and it comes back to, thank you very much, Are we agreed on that. Ok. Thank you very much for that progress. Then we go to item no. 8. Public party special. Public Party specials get reports from the people who attended the public party (inaudible) ... Mr Chikane.

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MR CHIKANE:

We attended the public hearing here in parliament and we, we are obviously, and I'm, this time I'm talking as a person who comes from a particular region, who were incensed by the way the presentation and people who are coming to present their case for Pretoria who are treated, where their submission, which they got permission to come and exhibit before the hall, were forcefully removed, you know, without, paying consideration to 1. The democratic right of information 2.

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Consultation of people who, and even people who come, especially members of parliament who come from that particular area, 3. Without even trying to contact members of the sub-committee before such action was taken, and as a result people felt that they were treated very unfairly, they were made to prepare and when they got here, suddenly the rules were changed in favour of those who had nothing to present, maybe. That's one portion, the other portion is that we believe that, the public hearing went very well, there was a lot of enthusiasm in the participants, it became quite clear that, on that particular issues, people who have on both sides are crossed party lines, it was not a party, it didn't take any particular (inaudible) ... nature, it was just either Pretoria or Cape Town or, that was good, we hope that the reporter are before the committee or the CC and that, they will be dealt with accordingly, but it was Ok.

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CHAIRPERSON:

Thank you very much, any other report, do you want to add something.

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MR LEKGORO:

Ja, just a small comment to say, I think it's the duty of, members of the CA when we go to hearings, I agree this is

an emotive issue, goes across party political lines but, members of the CA, who were there plus other members outside this committee, it was clear that they were not giving the impression to those representing them, they're listening attentively to their presentations other than to take sides even at the point of a hearing.

CHAIRPERSON:

Thank you for that comment. I hope that comment is aimed at correcting things so that in future certain things do not happen.

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MR MAREE:

Chairperson, I also attended that hearing which I think was, very informative, I found a whole morning and part of the afternoon that we spent there very interesting, and may I say, of course we dealt not only with the seats of government issue but we also dealt with languages, we dealt with symbols with the flag, un and so on and so forth, firstly, in regard to what Mr Chikane has said, I didn't even know about the exhibition lists that were set up in the lobby. I heard about it only afterwards, actually only when we met on Saturday morning and I was given to understand that the whips or one or more of the whips of the majority party

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actually objected and, arranged for the exhibition to be removed.

So I didn't even know about it, that's the one point that I would make because we, we as a party and I believe no other of the smaller parties had anything to do with that. Then secondly, a point of criticism, I think the program was too full, too full for the time that was available, perhaps we should have dealt with on Saturday only with the seats of government issue and at another time with the language and so on.

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So that is a point of criticism I think that we should take note of and let the secretary, secretariat know about. I believe that we are now going to receive copies of all the submissions that were made because it's important those issues are the only outstanding ones that we have to deal with, but they are perhaps one of the more, some of the more emotional and sensitive issues, the sooner we can get all the information so that we can start, discussing it within our party structures, the better it would be. And thank you very much Chairperson, you personally chaired the more

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difficult part of the session, the one on the seats of government and I think you, equated you very well of your task.

CHAIRPERSON:

Thank you very much, I understand the copies will be available tomorrow for the public hearing which was held here in parliament, so says the secretary and a further aspect the secretary tells me that the final ruling as to the removal of the stickers or posters was from the honourable sticker of parliament. After several people have launched it and complained, well if there's any matter to be put forward perhaps it should be better be put at that level if there's any tirade, because seemingly he used the power in terms of the rules and the constitution and so forth. So that was the ruling. Any other, Mr Lahore, you want to add something before closing.

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DR MULDER:

Sir, I've been trying very hard.

CHAIRPERSON:

Oh, I'm sorry, I'm sorry , Mr, Dr Mulder.

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DR MULDER:

Can I, I was first sir, I was long ago first,

CHAIRPERSON:

Come in, I've allowed you to come in.

DR MULDER:

No sure, no sir, just to add to it, I was for the whole day and I first want to compliment you on the first part, it was a very difficult session as such, with a lot of emotion in it. My father taught me that the one who gets angry usually got a bad case and there was a lot of anger in those and that sort of seeped me in the end of the day almost, but I went in with a open mind but I think, and that's my criticism I think we ought to be seen to be objective and therefore I 10 totally agree with Mr Chikane that I was a bit nervous that it wasn't always that way.

I don't want to mention names but someone of the committee, he's not here at the moment, I said to him if ever you become a judge I'll leave the country. So from that point of view I think it's important for the future also and then I must agree with the whole idea of the exhibition outside, I think it's quite serious in the sense that the people had a lot of costs, they came around and they said they had 20 permission from the Theme Committee, I'm not sure and then for the speaker to just get in there, if there's a mistake,

maybe it was our mistake, I'm not sure, did we inform for example the other Cape Town and Midrand for example that the others, that it's possible, that they can use it, because it's very difficult to make a distinction being having slides inside it, or having all the booklets around and exhibition, it's exactly the same, the argument is if the hearing was here, we would be different, of having the exhibition outside here or in parliament, so surely the (inaudible) ... people must be disadvantaged just because it was in the building as such.

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There is no difference from having a slide inside and having the exhibition outside the argument from the speaker was as far as we could gather that the others were disadvantaged, then it might come back to us to say, did they know or whatever to be objective but it's very difficult really to say no to those people and they had to remove it and I know they talked about a few thousand rand in cost that they did for that, so we must be objective we must be seen to be objective, objective outside and that freedom of speech is a very important one and I think we made a mistake there.

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CHAIRPERSON:

Thank you very much, is there still comment about the public party special on Saturday, Mr Lahore. Lets' take it very short please.

MR LEKGORO:

Yes, Comrade, Mr Chairperson, though one is that, is it possible in any time in the future when we deal with the finer points of that issue of the seat of government to further invite the 3 lobbies, maybe this time as an in-house thing, maybe they should bring in 1 or 2 reps to further you know detail there because I think giving the nature, the time allocated to them they were unable to give us everything in detail.

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But that at the point when we are going to deal with the issue and we are going towards a decision, we should have the benefit of them coming in and explaining further on certain issues.

That's' 1, No. 2 is the one that is it possible to register our complaint on the treatment of the on those peoples things which were taken down at the, probably, for the speaker to formally receive our complaint, even if its through the CC

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or whatever or management,

CHAIRPERSON:

Ja, on the other, on the first point of your first point you raised, the secretary tells me that they will make sure that some mechanism of having a representative coming to the theme committee session when this matter is to be discussed that will be taken on board. Now regarding the complaint mechanism, I'm not very sure whether it must go through, I think the people who want to make a complaint let it be direct to the Chairperson of the CA, who is also the Chairperson of the CC, wherein the complaint is set out, or even the Pretoria delegation concerned can make that complaint to the CA Chairperson who will then take it up with the speaker and look at the merits, but I think it's more administrative than the Theme Committee.

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UNKNOWN:

You know, Comrade Chair, the reason why we are discussing here is that we want this house and even the speaker and the president to know that this Committee has been give certain parameters of operation and one of those is to be able to invite people in to hear people and they must, that must be taken first, so because of that we want

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this Theme Committee actually to register that, it mustn't be like a side issue, you know, it's not actually, it's an issue of principal here.

CHAIRPERSON: Do you want to discuss it here and take a resolution. You've taken a resolution.

MR CWELE: Yes.

CHAIRPERSON: What does it say? What does it say? Where. 10

SISTER BENNETT: I think Comrade, I think that as a committee we do have a deed to protect the people who are coming to make a presentation to us and if something has gone wrong this committee must be able to say something about it. Thank you.

CHAIRPERSON: Alright, could the secretary then note, oh, there's still a division on that one, let's hear what the National Party has to say. 20

DR SCHOEMAN: Mr Chairman, I think that, if we say that we want people to

have equal access and we must be seen to be impartial then the question is did all 3 of these parties get notice that they could have an exhibition and if so then I would agree that it was unfair to take, to ask the 1 party to remove their exhibition, but if all 3 didn't, weren't invited to have pre-exhibitions for their particular case then we can't identify ourselves with a motion from this committee, disassociating ourselves from the removal of that particular exhibition.

CHAIRPERSON:

Mr Maree.

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MR MAREE:

Ja, I think the main point is that, that I'm personally, personally I'm not prepared to vote for a motion like that until and unless I have all the facts available, I don't have the facts, I don't know whether the Pretoria people just entered the lobby without any permission and started putting up an exhibition I don't know what arrangements they've made, I don't know what happened afterwards, I don't even have the facts in regard to who initiated the process of removing the exhibition and before I have that, we can discuss that at our next meeting. I don't say I won't be, I won't go for it but not before I have all the facts.

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CHAIRPERSON:

Ja, I also don't have facts, as the information I was giving I was merely taking it from the secretary, I think the secretary has more information as to whether they applied and what happened to come to them. Lets give her the platform so that the air can be cleared.

MS ROUTLEDGE:

Only the Pretoria bid asked us in advance if they could put up a display, none of the other bids, asked us and we were told that they needed a letter from the managing secretary of the Theme Committee to give them permission. She drafted a letter saying we have no objection displaying, Theme Committee 1, to them displaying, putting up a display.

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When our public relations department found out about it because someone from parliament from the public relations department in parliament phoned and said that they were complaining about this display, we couldn't put up one display up without putting up others. Then, our public relations department got involved and said apparently there is a ruling that there should be no outside displays unless it was a CA display and this is how it went up to the Speakers

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office who took a decision on this.

But I think the Cape Town one, I think it was the Cape Town bid went to complain, they didn't come to us and say can we put up a another display or can we put up a display. Each bid could have put up a display if they'd wanted to, they didn't have anything ready to put up, they weren't going to put one up.

DR MULDER:

Shouldn't we receive a full report for, from the secretariat about this issue, because the information that we now got from Susan is new, also new to me, the fact that the people had a letter from then and, and it is so, I think we should investigate it, but one of the whips of the majority party actually boasted in the meeting on Saturday that he as the man who put a stop to it all. And that's the guy they called judge here. (Inaudible) ... information also.

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CHAIRPERSON:

Alright, lets try and get a direction in the meeting. Ja, I know, but I don't think we should, we will discuss it for the whole day, the, I think that's a proposal given by Mr, wait a minute, there is a proposal which has been given by Mr

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Maree, I don't know whether we agree with the proposal, I don't know. Let's get the reply on that.

UNKNOWN:

Thank you Comrade Chair, I think Mr Maree has put a reasonable proposal let's arm ourselves with all the facts and once we have the facts at our disposal then we'll formulate a response if we consider a response necessary.

CHAIRPERSON:

Comrade (inaudible) ...

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UNKNOWN:

Ja, in fact I support that position but there is also another dimension here, in this parliament there are workers who are having a definite interest perhaps to a certain party in the display and so forth, that could have precipitated some unrest as well in here, so I mean let us first get all the information first and then a response, because I mean it's much broader than it's believed. Thank you.

MR CHIKANE:

Comrade Chair, you know I'm not one to make it a commission of enquiry necessarily, you know because I think the fundamental portion that this committee must defend is the freedom of expression, that's what is important. If we

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are going to hear public hearing or participation outside, there is a standing principal on freedom of expression, and I think once we have done so we should be able to express ourselves without necessarily getting into details. You know, that we support that, because I think getting into details it's like trying to put someone else on trial and I don't think it will help, what I'm saying is that for whatever reason if we continue on the line that we have we have already parted on the basic principal of democracy.

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And it meditates against us being able to hear people whether we agree or disagree with them. We cannot in future if we start doing that, somebody is going to bring an overhead projector and I can stand up and say we didn't say people must come with overhead projectors, let's not set wrong precedents for argument.

CHAIRPERSON:

Sister.

SISTER BENNETT:

I think just to affirm what Comrade Chikane say, it's a freedom of lobby, you do anything to lobby for whatever you have to do and I can't see anybody saying to you should not

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lobby for what you have to put across.

CHAIRPERSON:

What do we do? Where for it. Reverend Meshoe.

REV MESHOE:

We accept the proposal, but at the same time make another proposal that next week Monday we revisit the issue when we have all the facts.

CHAIRPERSON:

So, if I get you support a postponement but you say week you must get a report. Is there any different view? Alright, so next week we'll get the report of what happened and the whole set-up. Ja, alright, Comrade Cwele you wanted to say something.

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MR CWELE:

(Inaudible) ...

CHAIRPERSON:

By the way, oh, thank you very much I forgotten even that you were busy with the reports, come with the report.

MR CWELE:

Thank you, the report from (inaudible) ... In Natal, Newcastle, first of all it was a very peaceful meeting, it was very representative, all success of the community

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represented. Yes, there were all parties not, all parties were represented and I'm not sure about that, but let us relate it to Theme Committee 1 which we've tried to pick up there, was this issue of minimum voting age, by and large the people are saying the voting age must be 16 although there was 1 person who said it must be 18 specifically.

So there was some, but the majority was saying voting age must be decreased to 16, but in reason. Qualification for voting, majority are speaking that ID must be one of the qualifications, there were some concerns about the people who acquired citizen through nationalization process, that they must be monitored, that's why I think it was more of exploitation of employers or people who come for investment and run away with resources, and, thirdly the issue of secular state, majority were saying that there should be a secular state as if we understood it, except 1 person who also specified the constitution must recognise God, fourthly, issues which may be having implications on theme Committee 1, but not necessarily belonging there, the issue of a central strong central government or a strong provincial government, there was a very strong view of a strong central

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government, a lot of people said taxes, all taxes, must be controlled centrally and, the majority of them, and I think 1 person said taxes must be controlled at province.

Central government having all the right in powers, I think also it's got some implication on Theme Committee 1, and the issues is relating to schedule 6, defence and especially police and education, there was a strong feeling that those issues must solely belong to the national government and be controlled at the national level. There are very strong 10 objection to autonomy of the provinces. On language, there were submissions, I think 2 submissions but there were written submission on Afrikaans, and I hope that we'll get them from them, because they didn't read them, so the way, people were very strong about Afrikaans language being maintained.

Other issues of interest which not necessarily pertain to Theme Committee 1 which may be of interest, the whole issue of salaries of the Chief, none were saying that it must 20 be paid on the provinces or majorities or centrally. The majority of them they saying that (inaudible) ... And

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controlled by the King, and their payments must be going through the King. That was just of interest.

And the, most of the issues were around the human rights issues and the judicial system, and the, there was very strong voice on the rights to strike and the, but although others express a view on the protection of those who don't want to strike but another issue of interest was a on abortion. I think there was very few people, a minority of them were saying that they are for abortion, the majority were very 10
against abortion and the issue of death sentence to a right of life, there was a balance, 50/50 were saying for, others against. And this, though we just brought these issues were for just interest to Theme Committee 1, except for those (inaudible)...

CHAIRPERSON:

Thank you, thank you very Mr Cwele. Any other report?
Madam.

MS PIKOLI:

Thank you Mr Chairman. We were 2 from this theme 20
committee with Mr Van Zyl, but unfortunately he had to leave because I think he was going somewhere. The, we

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went to North-west and there we had about 3-400 people in attendance but they complained they did not know about the meeting so they wanted more meetings to be held. The participants were very representative and therefore participation was quite well spread out. The participants knew exactly what they wanted to be reflected in the constitution and they sort of articulated what they wanted. The issues of the of the inter state came up very strongly and most of them were against a volkstaat.

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They all wanted a secular, most of them wanted a secular state, they said that religion should be allowed, you know, we shouldn't have 1 particular religion, and they felt that the provinces should be given powers but all of the them should account to the central government. The judiciary, the legislation and the, and the executive should all account to the constitution.

They said that the national assembly should be cut down to about 300 to bring down the costs, they wanted that tax should be centrally operated upon but it should not exceed 40%. People in the government should be trustworthy,

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should be reliable and all them should be accountable to the people. They, part of them, somebody said part of the preamble should include the fact that God should be projected as very lively otherwise there will not be a future for our country. But otherwise the participation was very good and people knew exactly what they wanted. Thanks.

CHAIRPERSON:

Thank you Madam. Mr (inaudible) ...

UNKNOWN:

The public hearing that was (inaudible) ... was a success. The attendance was about 3000 people, the hearing was recorded and we are promised that the documentation of it will be available. 2 parties attended the public hearing. It was recorded, the ANC and the National Party. Thank you.

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CHAIRPERSON:

Thank you very much. Thank you very much, it's quite pleasing indeed, we hope the secretariat will try and get the relevant material which you must use in the Theme Committee for us. Then we are through with public participation, I think unless secretary.

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MS ROUTLEDGE:

(Inaudible) ... the briefing tomorrow.

CHAIRPERSON: Could you perhaps just announce that.

MS ROUTLEDGE: For those attending the CPM's next weekend, this weekend there will be a briefing on Wednesday at 12:00 o' clock in M201. (Inaudible) ... The names have been given in already by the parties.

CHAIRPERSON: I think they know themselves, they who have submitted the names last time, all the names for all the parties participation.

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MS ROUTLEDGE: Canarvon, Ellisras and Umlazi.

CHAIRPERSON: Umlazi, could you perhaps just repeat the name.

MS ROUTLEDGE: Canarvon.

CHAIRPERSON: I think in our case, Umlazi, we have Umzimkulu, that's not written here, then Canarvon, I'm not sure but the, people have been informed you are going there, they know already.

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I don't just have the list here. Right, General Valdoons portion. Reverend Meshoe.

REV MESHOE: I tabled a document that I would like to see on the agenda in the next meeting, unless if you don't mind us discussing it now.

CHAIRPERSON: Ja

REV MESHOE: From what the members are saying in the report, the issue of the secular state is being referred to a number of times, including that document that is in our, oh no, the, the document within our documentation now, there's a lot of 10 misleading and wrong signals that are sent out and I think we need to, for me to clarify it, this issue.

CHAIRPERSON: Who's sending the signals, is it the Theme Committee?

REV MESHOE: Where are the documents? Because you know, on the document that I tabled I am referring to some newspaper articles and also to a leaflet which was distributed on the 30th, that is misleading and I want us to revisit that, unless you want to open the debate now. 20

DR MULDER: Chair, may I just ask, the leaflets that are being referred to

here, what leaflets are those, are were they leaflets that were distributed by any structure of the CA. Was it done by the Constitutional Committee. Because what I'm after I don't, I don't understand why we have to deal with it, because we never issued any leaflets, we never had any debates in that regard, shouldn't this document be tabled at the Constitutional Committee or at the Management Committee wherever the matter has been discussed.

CHAIRPERSON:

Reverend Meshoe.

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REV MESHOE:

The reason I raise this matter here is because the whole thing started in this committee. It is a known fact that we never supported the separation between state and religion and that documentations that are sent around that we have supported that and our constituency wants to know why we are supporting the separation between state and religion and we are on regard for rejecting that we separate, we support the separation between state and religious institutions or between state and church, but not between state and religion, so I would not, do not the CA structures to continue telling the public that the ACDP supports

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separation between state and religion, because we don't.

CHAIRPERSON:

I wonder in the light of what Mr Maree said just now, isn't that our discussion of the secular state I think it was just one of the items in one report and if that did appear correctly as it was said in this, and we send it to the CA it is now the property of the CA so if the CA structure sent a certain information I don't know whether we will be able to correct that except when this matter is filed at the CC where the matter, where the origin of the document can be then changed, because I don't know whether we have that record in the Theme Committee 1, that there was any leaflet taken out by the by the Theme Committee stating anything about it, but I'm not aware, there might be, but I've not heard that there in any. If you can be helped along those lines.

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REV MESHOE:

Ja, I think you need to tell the CC that you sent out the wrong information. Because the CC, they did not come up with the statement that we agree with the separation between state and religion that statement came from the Theme Committee 1, so it is Theme Committee 1 that must rectify that mistake.

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CHAIRPERSON:

In the documentation, in the report in other words, in our report to the CC, did we as Theme Committee 1 indicate that you said things you did not say.

REV MESHOE:

(Inaudible) ... All parties. And in this meeting, I requested once that there should be all parties except the ACDP.

DR MAREE:

Chairperson, can I just say that this matter was also discussed at the Management Committee meeting last Thursday and, and actually if I remember correctly, the Management Committee actually decided that this matter should be referred for a, with a request to report on certain issues to this committee so what we are waiting now for actually is for a formal approach from the secretariat , following on the decision that was made by the Management to be reviewed, that's more or less what happened at the Management Committee. Rev Meshoe. They referred it back, so we now, we are now awaiting an instruction from the secretariat flowing from the decision of the Management Committee.

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REV MESHOE:

Ok, while we are waiting then, I would request that this be

put in the documentation of the CA.

CHAIRPERSON:

Mr Lekgoro.

MR LEKGORO:

Comrade Chair, I was wondering whether really we have got to be taken through all these processes, I mean the ACDP notes the recording of objection on a certain thing and, I mean I'm sure we accept that objection, because that's what the party is saying and to accept that objection and if they need a footnote on the next report going to the CA we can put that footnote that they have objected to that. That's all.

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CHAIRPERSON:

Thank you, it's all under general, not so. Thank you very much for that. Madam Secretary, is there still another thing under general. Once more, we should then request , the draft, wait a minute, the draft has, or rather the Technical Committee together with the Sub-committee to meet and try to compile a report for us in this case, and there was a question whether we are to meet on Thursday or not, because it is a CA day, and I don't know whether we have the material, which we would be able to discuss on that because otherwise we must be having this report being ready

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and perhaps even new submissions on the other floor following, can I hear briefly whether parties are feeling that we should meet on Thursday or not, very briefly.

MR MAREE:

From my personal side, I wish to tender my apologies, I won't be here that afternoon, but then also I think in the interests of most other members, that's the, we were supposed then to meet then on Thursday afternoon, because the morning was set aside for caucus meetings, that's going to be a Thursday afternoon after, be just before a very long weekend and I'm sure that many members would like to leave early to get to their families and to their constituencies and I believe that it would be in the interests of all of us not to have the meeting on Thursday.

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CHAIRPERSON:

Are you proposing that we should not meet. So is agreed that we should not meet on Thursday. Thank you very much, and then, I then understand that. I understand the deadline for the next block was supposed to be for today, can we agree on the, it seems diligent parties have submitted, other big parties, who are having to consult a number of structures before are still working on the

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mechanism, can we agree that we perhaps postpone the deadline to say next week, somewhere next week. Which day next week? Oh, alright, Monday next week then will be the next block. Thank you very much for attending. Let's hear what.

DR MULDER: Just one last thing, sorry sir.

CHAIRPERSON: The Dr and the Professor say, just a minute, just wait for the professor and the Dr.

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DR MULDER: Just my apologies sir, I'm leaving on a parliamentary tour on Thursday, trying not to disturb to much, we use the long weekend to do that, but I won't be here next week and our resources are not that big at the moment that they, my seconded is the general so maybe we will not be represented next week, so just apologies for that.

CHAIRPERSON: Alright, anyway there are no meetings next week.

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PROF CORDER: In fact that's just wanted to ask and, because we haven't been told we were told that we needed to be present for the

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last 2 weeks of June and then not the last week and then, next week but now, are there no CA meetings next week, and there are in the final week of June, because we haven't been told and it's less disruptive for me but it's extremely disruptive for my colleagues and I'm speaking as the convenor of the Technical Committee this is the first that they've and I've heard of the fact that they are no meetings next week.

CHAIRPERSON:

Can we have it this way that the secretariat immediately after the meeting and even thereafter that they should communicate with you and give you the program of the meetings so that you can have your matters arranged accordingly. Will that suit you. Thank you very much, then the meeting stands adjourned. The block committee on Foreign Affairs, ANC, the block on Foreign Affairs ANC, let's meet quickly please.

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MEETING ADJOURNED

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