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**CONSTITUTIONAL ASSEMBLY**  
**THEME COMMITTEE 1**  
**CHARACTER OF DEMOCRATIC**  
**STATE**

**7 November, 1994**

**Room M46**

**DOCUMENTATION**







# CONSTITUTIONAL ASSEMBLY

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## MEETING OF THEME COMMITTEE 1

### CHARACTER OF THE DEMOCRATIC STATE

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

**Date:** Monday, 7 November 1994

**Time:** 08h00

**Venue:** Room M46 (Marks Building)

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#### AGENDA

1. Opening
2. Previous minutes
3. Matters arising
4. Development of work programme  
(See: Report on work programme from core group)
5. Submission of names of Technical experts
6. A.O.B
7. Closure

**[NB:** ALL MEMBERS ARE REQUESTED TO BRING TO THE MEETING COPIES OF THE CONSTITUTION AND THE STANDING RULES OF THE CONSTITUTIONAL ASSEMBLY)



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**H EBRAHIM  
EXECUTIVE DIRECTOR:  
CONSTITUTIONAL ASSEMBLY**

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**Enquiries: L. Rammble and K. Radu, Room CA210 (Tel: 403 - 2268)**



## **CONSTITUTIONAL ASSEMBLY**

### **MINUTES OF THE THIRD MEETING OF THEME COMMITTEE 1 CHARACTER OF THE DEMOCRATIC STATE MONDAY 31 OCTOBER 1994 (08h00)**

#### **Present**

#### **Felgate W (Chairperson)**

Booi M S	Moorcroft E K
Chiba L	Mulder P W G
Chikane M M	Nzimande B E
Chiwayo L L L	Ripinga S S
Gumede D M	Seaton S
Ginwala F	Shope N R
Hangana L E	Swanepoel L
Kekana N N	Van Deventer F J
Lamani N E	Van Rensburg A P J
Mahlangu N J	Van Zyl I D
Majola-Pikoli N T	Vilakazi B H
Marais P G	Viljoen C L
Meshoe R K	Williams A J
Momberg J H	

Leola Rammble and Khulile Radu were in attendance.

#### **APOLOGIES: A Marais**

#### **1. OPENING AND WELCOME**

The meeting was opened by the Chairperson.

#### **2. PREVIOUS MINUTES**

The minutes of the previous meeting were adopted with no issues arising thereof.



**3. MATTERS ARISING**

None

**4. CORE GROUP REPORT**

- 4.1 The Chairperson gave a brief report on the decision taken at the core group meeting dated the 28 October 1994.
- 4.2 It was agreed by the meeting that the report prepared by the secretariat should be re-evaluated by the core group. The DP and IFP stated that the report was biased in favour of the ANC. The report also excluded some important points which were raised in the submissions made by the various parties.
- 4.3 In this regard, the structure of the report should be based on the guidelines set out by the Directorate. It was also suggested that the guidelines should include sub-items in order to facilitate a meaningful debate. The end-product of such a debate would be a proper workplan.
- 4.4 The Theme Committee mandated the core group to collate the viewpoints and highlight different viewpoints. The setting-up of proper and realisable time-frames was of the essence.
- 4.5 It was agreed that the core group should meet immediately after the meeting to discuss the content of the report.
- 4.6 It was further agreed that the report should be circulated by the afternoon of 3 November 1994.

**5. ANY OTHER BUSINESS**

It was agreed that all parties should submit a list of Constitutional technical experts by the 7 November 1994.

**6. Closure:**

The meeting rose at 10h00.



## **CONSTITUTIONAL ASSEMBLY**

### **THEME COMMITTEE ONE**

#### **MINUTES OF CORE GROUP MEETING MONDAY 31 OCTOBER 1994 (AT 08H00)**

##### **Present**

W Felgate (Chairperson)

N J Mahlangu  
N T Majola-Pikoli  
P G Marais  
K R Meshoe  
E K Moorcroft  
P W A Mulder

#### **1. OPENING AND WELCOME**

The meeting was opened by the Chairperson.

#### **2. CORE-GROUP REPORT**

- 2.1 The Chairperson indicated that the report which was prepared by the secretariat was biased in favour of the ANC and after some discussion withdrew this point.
- 2.2 The Core Group agreed that the secretariat would prepare an amended report following the guidelines given by the members of the theme committee of the meeting dated the 31 October 1994.
- 2.3 The report should be structured according to the guidelines given by the directorate, with sub-division of principles highlighting each of the various parties proposals.



The core group should consider and approve reports prior to a meeting and the chairperson should in consultation with the secretariat approve the minutes.

**3. TECHNICAL EXPERTS**

- 3.1 The parties were requested to submit names of technical experts to the core group. Whilst, it was noted by the meeting that only three experts are required to assist one Theme Committee, it was agreed that eight names be circulated in order to cater for changes.
- 3.2 The secretariat should circulate the list of names of the technical experts to give the core group an idea of experts who are available.

**4. ANY OTHER BUSINESS**

The Secretariat is requested to number its documentation.

The next meeting of the Core Group is scheduled for Wednesday, 2 November 1994.

The meeting rose at 10h00.



## CONSTITUTIONAL ASSEMBLY

### THEME COMMITTEE ONE

#### MINUTES OF CORE GROUP MEETING WEDNESDAY 02 NOVEMBER 1994 (16H00)

#### PRESENT

W Felgate

M M Dyani  
N J Mahlangu  
N T Majola-Pikoli  
A Marais  
E K Moorcroft  
P A W Mulder

#### APOLOGIES: K R Meshoe

Thandi Mngadi-Kgosidintsi and Khulile Radu were in attendance.

#### 1. OPENING AND WELCOME

The meeting was chaired by Mr W Felgate who reminded the members that the business of the day, was to discuss the core-group report which was sent back to the Secretariat for re-evaluation.

#### 2. DISCUSSION OF THE CORE-GROUP REPORT

- 2.1 The meeting agreed to endorse the Secretariat's report on Party submissions subject to further corrections. In this regard, the Secretariat requested the members to submit such corrections before 1400 hrs 03-11-1994. The meeting also decided to present the report at Theme Committee 1 level for debate, wherein parties would again be allowed to restate issues.

Noting, the dire need for technical expertise at Theme Committee 1 level, the meeting unanimously resolved to submit names of technical experts to the Secretariat before 1400hrs on 03 November 1994. It was also established that there is nothing that precludes members from making written submissions, in an effort to enrich the scope of operation of the Theme Committee, in Monday's (07-11-1994) meeting.

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There being no other business to discuss, the meeting rose at 16.45 pm.





## REVIEWED CORE GROUP REPORT

The format of the report is structured to highlight the following:

**PARTY** - this indicates the names of the various parties and those parties which are in agreement on issues.

**PART POSITION** - this deals with the issues and suggestions made by political parties.

### A) CONSTITUTIONAL ISSUES WHICH NEED TO BE ATTENDED TO BY THEME COMMITTEE ONE

#### 1. PREAMBLE

No.	PARTY	PARTY POSITION
1.	DP	The existing preamble is (or will not be relevant. It must reflect the text.
2.	IFP	If the constitution contains a Preamble it should contain normative value.
3.	ANC	The Preamble should consistent with the text and be consulted for interpretation.
4.	NP & FF	A separate report should be submitted on the Preamble. The NP further states that the report should be completed by the end of March.



2. ESTABLISHMENT OF A SINGLE SOVEREIGN STATE

No.	PARTY	PARTY POSITION
1.	PAC	There first needs to be agreement on whether South Africa should be a socialist or capitalist state.
2.	ANC	Emphasis on Democracy, Equality and Majority rule. The ANC indicated that a separate report is required. The ANC further indicates that this matter is an issue to be dealt with on a priority basis and in a commission.
3.	IFP	The following issues need to be discussed, namely: Democracy - Is a rigid constitution that guarantees human rights the best guarantor of <u>democracy</u> ? Equality - What type of principle of <u>equality</u> should be entrenched in the Constitution? This issue should be dealt with on a priority basis



4.	NP	<p>The following principles should be referred to:</p> <ul style="list-style-type: none"> <li>a) CP XIV</li> <li>b) CP XVI</li> <li>c) CP XIX</li> <li>d) CP XX</li> <li>e) CP XXI</li> <li>f) CP XXII</li> <li>g) CP XXXIV</li> </ul> <p>Theme Committee 1 should deal with the principle of minority rights and Theme Committee should deal with detailed definitive minority rights.</p> <p>Theme Committee 1 should deal in principle with the position of provinces and volkstate within "one sovereign state" and theme committee 3 should deal with definite definitions.</p> <p>Theme committee one should consider the divisions of power in principle while Theme Committee 2 gives detailed description of the duties of every authority.</p>
5.	FF	<p>The above issue should be dealt with on a priority basis.</p> <p>A separate report should be submitted and technical assistance should be obtained in respect of this matter.</p> <p>Emphasis on democracy and equality. A separate report.</p>

5.



### 3. SUPREMACY OF THE CONSTITUTION

No.	PARTY	PARTY POSITION
1.	NP, FF & ANC	<p>All three parties agree that the point of discussion should be Principle IV. The ANC however, includes the following points:</p> <ul style="list-style-type: none"> <li>a) Constitution - Supreme law</li> <li>b) Supremacy of parliament in legislation.</li> </ul> <p>Both the ANC and NP agree that a separate report is necessary. The NP further stipulates that a report should be submitted by the end of March.</p> <p>This matter should be dealt with as a matter of priority according to the ANC.</p>
2.	IFP	<p>The discussion should focus on the following points:</p> <ul style="list-style-type: none"> <li>a) Shall the constitution apply in its entirety to interpersonal relations?</li> <li>b) To which extent should the Constitution apply with respect to the area of Provincial autonomy.</li> </ul>
3.	DP	<p>The constitution shall be the supreme law of the land,</p> <ul style="list-style-type: none"> <li>a) Special Amending procedures involving concurrent majorities.</li> <li>b) Interpretation by the court or a special court.</li> <li>c) Should define competences of the various levels of government.</li> </ul>
4.	IFP	<p><b>LANGUAGE</b></p> <ul style="list-style-type: none"> <li>a) What should be the official language(s) of the country?</li> <li>b) Should we have a unified notion of official language(s)?</li> <li>c) What is the relation between national and provincial language(s)?</li> </ul>



#### 4. REPRESENTATIVE GOVERNMENT

The NP, ANC, IFP and FF agree that Principle VIII should be examined.

No.	PARTY	PARTY POSITION
1.	NP	A separate report should be submitted.
2.	ANC	<p>The following issues should also be dealt with:</p> <ul style="list-style-type: none"> <li>a) Embodying multi party democracy</li> <li>b) Regular elections</li> <li>c) Suffrage</li> <li>d) Common voters role</li> </ul> <p>The matter to be dealt with in commission and should also be dealt with in Theme Committee 2.</p>
3.	IFP	<p>The following matters should be examined:</p> <ul style="list-style-type: none"> <li>a) Proportional Representation</li> </ul> <p>Systems of representation should take into account the degree of plurality that there is in a society and the degree of literacy in it.</p> <ul style="list-style-type: none"> <li>b) Representative Government</li> </ul> <p>Representative government must be made as autonomous as possible at all three levels of government.</p> <ul style="list-style-type: none"> <li>c) Suffrage</li> </ul> <p>Universal adult suffrage is a democratic must in S.A. and the age threshold for the right to vote should be set at the earliest age at which responsibility compatible with voting rights is generally achieved.</p>
4.	FF	<p>The following principles should be examined:</p> <ul style="list-style-type: none"> <li>a) CP II</li> <li>b) CP XIV</li> <li>c) CP XVII</li> </ul>
5.	DP	The electoral system should be dealt with in Commission and overlaps with Theme Committee 2.



5. **FREEDOM OF INFORMATION AND ACCOUNTABLE ADMINISTRATION**

No.	PARTY	PARTY POSITION
1.	NP & ANC	Both parties agree that Principle IX should be examined.
2.	IFP	<p>The following matters need to be discussed:</p> <p>a) Freedom of information Determine what procedures and mechanisms will be needed to make government as transparent as possible, and determine what limits of discretion should be set for Ministers of State charged with security matters.</p> <p>b) Accountable administration Determine what political, legal and judicial mechanisms are necessary to make government accountable.</p>
3.	DP	<p>Freedom of information and Accountability.</p> <p>a) A series of institutions should be developed to broaden transparency and accountability.</p> <p>b) A law (perhaps provided for the constitution) should be passed to provide for administrative justice.</p>



**6. NAME AND DESCRIPTION OF STATE AND SYMBOLS**

No.	PARTY	PARTY POSITION
1.	NP	<p>The definition and promotion of official languages form part of the national symbols and belong to the terrain of theme committee one and therefore CP XI and XII should be added to the committees assignment.</p> <p>Theme committee one should deal with official languages and theme committee four should deal with language and cultural rights.</p> <p>A report should on the name and definition of the territory of the state, national symbols and official languages should be submitted.</p>
2.	ANC	<p>The following matters should be dealt with: symbols name</p> <p>This issue should be dealt with in commission.</p>
3.	IFP	<p>Different proposals should be collected along with the reasons supporting the position of those who wish to change the name.</p>
4.	DP	<p>The issue should be dealt with in the commission.</p>



7. CITIZENSHIP AND FRANCHISE

NO	PARTY	PARTY POSITION
1.	DP	The rights of prisoners, expatriates and permanent residents need to be reinvestigated.
2.	IFP	Who should be citizens? What are the purposes of a constitutional definition of citizenship? Should there be a unified notion of citizenship? How does citizenship affect the relationship between provincial governments and their subjects?
3.	NP	This directive should be dropped since it is covered in matters dealing with "a single sovereign state" and "representative government, regular elections and suffrage"
4.	ANC	Examine CP I
5.	FF	The following principles need to be examined: CP I CP II CP III CP V CP VIII CP XI CP XII CP XIII CP XIV CP XVII Language and culture section 3, 31, 107



## **8. SEPARATION OF POWERS**

<b>NO</b>	<b>PARTY</b>	<b>PARTY POSITION</b>
1.	ANC & FF	Principle VI The ANC proposes that this issue be dealt with in commission. The FF proposes that a separate report be submitted.
2.	NP	Principle VI and XX The NP proposes that this issue be dealt with on a priority basis and that a separate report be submitted.
3.	IFP	Examine the proposition that power of the state is maximised when it is put under the restraints of a democratic system in which the rigidity of the constitution, the accountability of government, the guarantees of human rights are enhanced by the separation of power.
4.	DP	The DP propose that this should be dealt with in the commission.



**THE FORMAT AND CONTENTS OF  
THE REPORT OF THE FIRST THEME COMMITTEE  
ON THE CHARACTER OF THE DEMOCRATIC STATE**

With reference to the applicable constitutional principles set out in Schedule 4 of the Constitution, the submissions of the parties have identified and defined a number of issues as issues relevant to the work of this Theme Committee.

The discussion of these issues has not proceeded to a point which makes it possible to identify party positions with respect to all issues that have been raised by parties. Nor, in most cases, is it possible to determine whether most of the issues are contentious or not contentious.

If parties have raised issues they should be debated at Theme Committee level to determine party positions on each of them. Without this debating of issues it will not be possible for Theme Committee reports to indicate contentious issues and fully report on non-contentious issues - as agreed to in the adoption of the Constitutional Committee's report to the Constitutional Assembly.

Guidelines for the drawing up of reports have been given to Theme Committees, but any interpretation of these guidelines which obscures what is contentious and what is not contentious will make it impossible for the Constitutional Committee to properly report to the Constitutional Assembly.

This submission attempts to take the issues that parties did raise in their respective reports and gathers together whatever positions parties put forward on them under a number of headings.

**PREAMBLE:**

- ISSUE :**                   Should the Constitution contain a Preamble?  
                              What are (a) contents and (b) legal value of the Preamble
- ALTERNATIVES:**        The Preamble could be with or without normative value
- The Preamble may or may not contain matters of substance
- AGENDA:**                Consider why in constitutions there are Preambles and how they affect the interpretation of the Constitution and the Legal system
- IFP POSITION:**           If the Constitution contains a Preamble it shall have normative value.



**DP POSITION:** The Preamble must be reconsidered since the existing one would no longer be relevant.

**ANC POSITION** The Preamble should be consistent with the text of the constitution and should guide the interpretation of the constitution without having direct normative value

**NP & FF POSITION:** A separate report should be submitted.

**STATUS:** It is not clear whether this issue is contentious or non contentious.

#### **EQUALITY:**

**ISSUE :** What type of principle of equality should be entrenched in the Constitution?

**ALTERNATIVES:** Formal equality will need to be entrenched. In addition the Constitution may entrench the principle of substantive equality. This can be achieved either by promoting equal opportunities or equal access to opportunity. The principle of equality may be implemented and enforced exclusively by the National Government or by the National Government and the Provinces in their respective areas of jurisdiction.

**AGENDA:** All the main variations of the principle of substantive equality will need to be explored. The relation between substantive equality and the need of constitutional adjudication to be conducted by Constitutional Court only will also need to be explored. It will also be necessary to look at the many alternatives related to the application of the principle of formal equality with respect to the area of provincial autonomy. The difference between implementation and enforcement will also need to be fully explored.

**IFP POSITION:** The principle of Equality should foster equal access to all political, social and economic opportunity and should mandate the Republic to remove all substantive hindrances to the implementation of this principle. Equal "access" to opportunities does not mean redistribution of wealth, assets or resources, nor does it mean "equal opportunities". However, special training opportunities and assistance to small business are required to substantiate equal access to opportunities, the principle of which should be constitutionalized.  
The principle of Equality should be entrenched in the national constitution but implemented by the Provinces with respect to the matters of their competence (i.e. employment/labor, education, welfare, et cetera). The Republic might have the power to coordinate this implementing role of the Provinces.

#### **NAME AND SYMBOLS OF COUNTRY**

**ISSUE:** Should the name and the symbols of the country be changed?



**ALTERNATIVES:** As proposed by those who wish to change the name and/or the symbols.

**AGENDA:** Different proposals should be collected along with the reasons supporting the position of those who wish to change the name and/or the symbols.

**IFP POSITION:** The IFP does not see a reason justifying changing the present name and symbols of our country but will consider reasons which other parties or stakeholder may put forward to justify the need to change the name and to support alternatives names.

**SUPREMACY OF THE CONSTITUTION:**

**ISSUE:** In which form shall the Constitution be the supreme law of the land? Shall the Constitution apply in its entirety to interpersonal relations? To which extent should the Constitution apply with respect to the area of provincial autonomy?

**ALTERNATIVES:** The Constitution may apply to intergovernmental relations only or also to interpersonal relations. The constitution may also apply in its entirety with respect to provincial autonomy or in the alternative only some portions of the constitution may apply with respect to provincial autonomy. Furthermore, there might be differentiation between direct application of the text of the constitution to provincial autonomy and constitutional mandates which must be implemented by the provinces autonomously, with specific regard to the implementation of both sections of the Bill of Rights which require implementing government action (second, third and fourth generation human rights).

**AGENDA:** The full analysis of the position for various constitutions in the respect to legal systems must be undertaken with specific attention to federal systems including the US, the German and the European Union models.

**IFP POSITION:** The constitution shall not only all organs of the Republic but shall also apply to legal relations under the control of the Republic. The Constitution in its entirety shall not apply to the Provinces, social and cultural formations, or individuals with respect of their area of constitutionally recognized autonomy, but some portions of shall have some application. In this respect reference to the technique used in the Article IX and in 14th Amendment of the U.S., as well as to the proposed Constitution for a Federal Republic of South Africa tabled by the IFP at the WTC.

**REMARKS:** The ANC identifies this as a priority issue.  
This issue may overlap with the work of the 5th Theme Committee

**LANGUAGE:**

**ISSUE:** What should be the official language(s) of the country? Should we have a unified notion of official language? What is the relation between national official language(s) and provincial official language(s).



- ALTERNATIVES:** One or more languages might become official languages. A language may be official only with respect to some purposes but not with respect with all purposes. An official language might relate only to relations between subjects and government or may also apply to some interpersonal relations of significant importance.
- AGENDA:** Full consideration should be given to the issue of official languages in plural societies across the world. A model should be developed to analyze the various segments of social life in which language plays a role which deserves constitutional attention.
- IFP POSITION:** The IFP believe that there is need to move away from the present system of 11 official languages. Greater emphasis must be given to official languages in the Provinces. Once the Provinces become the "primary government of the people", any given language will have primary protection at Provincial level. Additional protection will derive from the recognition of constitutional autonomy for cultural formations, which the IFP has been advocating
- REMARKS:** May overlap with the work of the 4th Theme Committee  
The DP suggests a commission of enquire
- CITIZENSHIP:**
- ISSUE:** Who should be a citizen? What are the purposes of a constitutional definition of citizenship? Should there be a unified notion of citizenship? How does citizenship affect the relationship between provincial governments and their subjects?
- ALTERNATIVES:** There could be a unified notion of citizenship or more than one notions. Citizenship could be based on *jus sanguinis* or *jus solis* or on a combination of both. Citizenship could be an irrevocable right or it could be revoked under some specified circumstances, among which there could be political circumstances. The matter could be determined entirely by the constitution or it could be partially left to the discretion of the legislature. There could be naturalization in specific cases and could be a right on the basis of *jus sanguinis*.
- AGENDA:** The committee should study the purpose of the notion of citizenship and its relation to human rights protection
- IFP POSITION:** The establishment of a common citizenship should not hindered the establishment of provincial citizenship with respect to the functions of the Provinces, which will be limited by the customary constitutional provisions prohibiting restrictions of inter-provincial commerce and the free circulation of goods, people, labor and services. Citizen should always be recognized on the basis of *jus soli* and often on the basis of *jus sanguinis*. Naturalization on the basis of *jus sanguinis* should be a right.
- DP POSITION:** The rights of prisoners, expatriates and permanent residents in South Africa should



be re-investigated.

## **DEMOCRACY:**

**ISSUE:** What type of Democracy? How far should the principle of democratic representation extend? How does the democratic principle related to pluralism and the notion of autonomy of social, cultural and economic formations?

**ALTERNATIVES:** Direct democratic participation is different from the principle of democratic representation. Democratic representation and/or participation could be limited to legislative functions or they could be principles which permeate governmental structures and functions in their entirety. All powers could be granted to the government which exercise them on the basis of the applicable democratic principle, or alternatively some powers could be left to the autonomy of individuals and social, cultural and economic formations respectively, thereby limiting the scope and extent of government.

**AGENDA:** The relation between individual and group freedom on the one side and the power of government on the other side should be carefully analyzed to determine how it relates to the needs of a plural society and to the promotion of pluralism.

**IFP POSITION:** The principle of participatory democracy should be constitutionally entrenched. The principle the autonomy of individuals as well as of economic, social and cultural formations should also be entrenched with respect to all activities for which any level of government does not have a compelling justification to regulate, control or directly exercise. The principles of transparency and political and civil accountability of governmental structures shall be constitutionally entrenched.

## **SUFFRAGE:**

**ISSUE:** Who should have active and passive voting rights?

**ALTERNATIVES:** Different notions could be employed for active and passive voting rights. Different notion of suffrage could be employed at national and provincial levels.

**AGENDA:** Research international and particularly African trends in determining voting rights.

**IFP POSITION:** Only South African citizens 18 years or older should have active and passive voting rights for national and provincial elections. An higher age could be required to be elected to key political posts.

## **REPRESENTATIVE GOVERNMENT:**

**ISSUE:** What type of provision should the constitution make for representative governments?

**ALTERNATIVES:** Representative government could be at national level only or also at provincial and local government level. Direct democracy, such as referenda is not an alternative,



but rather a supplement to representative democracy.

**AGENDA:** It will be necessary to analyze the need of representative government at all levels with special regard to the plural nature of South Africa. The role of traditional leaders as administrators of traditional communities should also be studied. The relation between institutions of direct democracy and representative democracy should be considered.

**IFP POSITION:** The principle of political representation of government and regular elections should be constitutionally entrenched with respect to national, provincial and "primary" local governments (excluding local government substructures, including traditional communities). The implementation of this principle with respect to provincial and local government should be left to the autonomy of the Provinces. Provision shall be made for referenda to be held at the request of a reasonably small number of dissatisfied citizens at all levels of government.

**REMARKS:** It may overlap with the work of the 2nd Theme Committee.

#### **PROPORTIONAL REPRESENTATION:**

**ISSUE:** Should the constitution contain the principles of the electoral legislation? What type of electoral system should be adopted?

**ALTERNATIVES:** The constitution may be silent about electoral the system deferring any decision to the law, or could decide the general parameters of the electoral system, or could go into the details of the electoral system.  
The electoral systems, and each variations thereof, are too many to be mentioned.

Electoral boundary determination, and possible minimum thresholds to qualify for representation in parliament are also issues related to the electoral system.

**AGENDA:** Pros and cons of constitutionalizing the electoral principles should be assessed against available comparative experiences.  
All major electoral models should be studied to determine how they affect the type democracy and political representation, the protection of minorities.  
Techniques of drawing electoral boundaries and limiting representation to major parties only should be fully inventoried.

**IFP POSITION:** The electoral system is a fundamental element characterizing the form of government and the type of democracy, and therefore the constitution should set out the general principles of the electoral system, leaving to the law the task of implementing such principles.  
The electoral system should use the pure proportional system on national and provincial basis (50%-50%) to determine the amount of representation to which each party contending election is entitled. However, it should use the constituency system to determine which candidates are elected.



There should be no minimum threshold to be represented in parliament, provided that a party may elect at least one representative. All electoral boundaries should be drawn by an independent body in cooperation with the political parties.

DP POSITION                    A commission of enquire is necessary

REMARKS:                    It may overlap with the work of the 2nd Theme                    Committee

**FREEDOM OF INFORMATION:**

ISSUE:                    Should the constitution contain the right to access government of information?

ALTERNATIVES:            The constitution may not consider this aspect of social life or may provide for the constitutional principles which will guide the adoption of a Freedom of Information Act

AGENDA:                    The Freedom of Information Act (FOIA) of the USA should particularly studied as a reference point in conjunction with provisions in modern constitutions which have constitutionalized the right to access government information

IFP POSITION:              The right to access all government information and private data bank's information shall be recognized in the constitution, with customary qualifications and exclusions, subject to judicial review.

REMARKS:                    It may overlap with the work of the 4th Theme                    Committee.

**ACCOUNTABLE ADMINISTRATION:**

ISSUE:                    How should the constitution deal with the principle of administrative accountability?

ALTERNATIVES:            The constitution may relegate administrative accountability as a part of the political responsibility of the party in power, or alternatively could provide for specific means of accountability, administrative justice and participation of the public in administrative procedures.

AGENDA:                    We should classify and study tools of administrative accountability, including (a) administrative justice based on judicial review of administrative actions and regulations, (b) personal liability of public officials, (c) Public Service commissions, and (d) participation of affected interests in all relevant executive or regulatory actions of government. This last aspects should be particularly analyzed with respect to the experience of the USA. Special attention should be given to the IFP proposal for a Regulatory Relief Commission and the report of the US Grace Commission.



**IFP POSITION:**

The notion of administrative justice and judicial reviewability of all administrative actions shall be constitutionally entrenched. Public official shall be personally responsible for gross negligence and malice. Provision shall be made for the recognition of the right to petition any government structure.

The constitution should entrench the notion of participation of the affected public interest in the formative process of an administrative action or regulation.

Reference is made to the proposed Constitution for a Federal Republic of South Africa tabled by the IFP at the WTC with respect to the IFP proposal for the Public Service Commission.

**SEPARATION OF POWERS (Form of State):**

**ISSUE:**

How are powers to separated in the constitution?

**ALTERNATIVES:**

There are two types of separation of powers, that which relates to the form of state and that which relates to the form of government. As it relates to the state, the final power of the state could be divided between two levels of government. In terms of form of government, the power allocated to each level of government is divided into legislative, judicial, and executive powers. A further division of power related to the form of state which can also be reflected in the constitution is the division of power between any level of government and civil society

**AGENDA:**

Separation of power related to the form of state should be the object of a preliminary determination on the basis of the following questions:\*\*

- (a) will Provinces have residual powers, which are those powers of Parliament which are not immediately and necessarily reflected in a governmental line function?
- (b) as a matter of principle, will all the powers and functions of government be assigned to the Provinces and only those powers which cannot be adequately and/or properly exercised at provincial level be devolved to the national level of government on the basis of the principle of subsidiarity/residuality?
- (c) will the Provinces be provided with an area of entrenched constitutional autonomy which the central government may not destroy or change at its own will? [Indestructible Provinces in an indestructible Union]
- (d) will Provinces have final decision-making power in the area of their constitutionally recognized autonomy, or will the central government have the power to overrule them or otherwise subjugate the provincial policy making?
- (e) subject to the need for equalization grants, will Provinces have sufficient financial and fiscal autonomy to support their functions and powers without depending on the discretion and control of the central government?



- (f) will Provinces have the power to participate as Provinces in the legislative decision-making process and possibly with respect to some executive functions of the central government?
- (g) will the constitutional system allow for asymmetry to enable each Province to use at its own option less powers and functions than the total amount of provincial autonomy allowed under the Constitution?

**IFP POSITION:** There shall separation of powers between national and provincial levels of government. National government shall have no overrides and Provinces shall have exclusive powers. Relations between the two levels of government shall be regulated by checks and balances, intended as a predetermined set of mutual interference among the powers of each level of government, based of the extension by relevancy or implication of the powers of one level of government into areas of competence of the other, as in theory is the case in the U.S. (i.e.: interstate commerce).

There shall be separation of powers between any level of government and civil society. Individuals as well as social, cultural and economic formations shall be recognized an area of protected constitutional autonomy defined by the interests they are capable of self-regulating and administering and in respect of which no government has a compelling reason of public interest to intervene.

**NP POSITION** This issue also relates to the issue of the "single sovereign state"

**REMARKS:** It may overlap with the work of the 3rd and 6th Theme Committees

**ECONOMIC CONSTITUTION:**

**ISSUE:** Should the constitution contain a set of economic provisions or should all economic matters be left to Parliament to decide. Which fundamental economic policies should be entrenched in he constitution?

**ALTERNATIVES:** All constitutions contain a set of economic provisions. There are endless variables which relate to the "Type of State" (see *infra*).

**AGENDA:** There should be a full analysis of the economic constitutions of advanced modern democracies

**IFP POSITION:** There shall be a set of economic provisions identifying the economic constitution including:

- a. Limits on government intervention in economic matters
- b. Entrenchment of the free market enterprise system



- c. Entrenchment of private and communal property
- d. Principle of constitutionally mandated privatization
- e. Limits on public property and accountability
- f. Requirement for a balanced budget with procedures for exceptions

REMARK: It may overlap with the work of the 4th and 6th Theme Committee

#### INTERNATIONAL LAW:

ISSUE: What is the relation between the domestic and the international legal system?

#### ALTERNATIVES:

The Constitution may ignore the international legal system(s) or may recognize it (them) determining the rules of such recognition and the effects of international law on municipal law.

AGENDA: International law provisions in modern constitutions should be fully analyzed. The nature of the different types of international law should also be fully understood and analyzed

#### IFP POSITION:

War shall be prohibited as a means to solve international controversies.

Provision shall be made for the automatic reception of prevailing international law.

Limitation of sovereignty may be allowed for purposes of international organization and integration. Possibly, specific mentions could be made for the promotion of a super-national sub-Saharan economic community for the management and utilization of environmental, mineral and water resources.

The South African legal system should automatically adjust to international norms of general acceptance and recognition.

#### SEPARATION BETWEEN CHURCH AND STATE

ISSUE: Should state and church be separated. How and in respect to what church and state should be separated

#### ALTERNATIVES:

Separation of state and church may create obligations for the State alone or for both the State and the church(es). Separation may be total or limited to certain and specified areas. The State be merely barred from authorizing and/or regulating churches (establishment



clause) or may also be barred from supporting or interfering with them (no state involvement clause).

AGENDA: The different aspect of separation between state and church should be studied and classified.

**IFP POSITION:**

Church and State should be totally separated. The State may not take any action which promotes, supports or hindered any given church or religion in general, and should not be involved in any religious matter. Churches may not engage in political action and can only criticize governmental legislative and executive activities when they directly affect their establishment or operation or when they would compel the members of the Church concern to perform actions which are contrary to their religious beliefs.

REMARKS: It may overlap with the work of the 4th Theme Committee

**TYPE OF STATE**

ISSUE: What type of State

**ALTERNATIVES:**

Socialist State, European type "Social State", Liberal State, an undetermined type of state. The type of state is defined by the fundamental policies and decisions entrenched in the Constitution

AGENDA: The different types of states should be classified with respect to the list of constitutional choices which contribute to its determination, which range from the nature and extent of the bill of rights (social and economic rights) to the type of representative democracy and the constitutional obligation on the legislature. The extent and the role of government in social and economic life also contribute to define the type of State.

**IFP POSITION:**

South Africa should be social but not a socialist state. Private property and free-market enterprise and the role of government in economic matters should be severely limited. However the constitution should contain all recognized social and economic rights along with constitutional imperative s which mandate the legislature to operate to remove social injustice, and promote the social growth of all South Africa. For more specific reference see the IFP proposals to the WTC.

**PAC POSITION:**

It could be inferred that the PAC advocates a the socialist type of state

STATUS: Contentious issue

REMARKS: The PAC identifies this as a necessary preliminary determination.



## **SINGLE SOVEREIGN STATE**

The ANC believes that this is a priority issue

The NP believes that this issue embraces the issues of minority rights, the position of the provinces and the volkstate and the issues related to citizenship.

The IFP believes that this heading does not represent a separate "constitutional issue" but it is rather a qualification or guideline which affects all the foregoing issues.

It may overlap with the work of the 2nd and the 3rd Theme Committees

0660.1



**DATABASE:  
CONSTITUTIONAL EXPERTS**

**1 NOVEMBER 1994**



**DATABASE OF CONSTITUTIONAL EXPERTS  
1 NOVEMBER 1994**

	<b>NAME</b>	<b>QUALIFICATIONS</b>	<b>AREA OF SPECIALISATION</b>	<b>OCCUPATION</b>
1.	Nicolaas Christiaan Steytler	BA University of Stellenbosch 1974 LL B University of Stellenbosch 1976 LL M University of London 1979 PH D University of Natal 1987	Criminal Procedure in SA Constitution making in SA Legal Assistance - Dept of Justice Academic Teaching (Lecturing) Research Editing Administration	Acting Director, Community Law Centre, University of the Western Cape



2.	Jacobus Rosier De Ville	<p>B.Comm (Law) Potchefstroom University 1987</p> <p>LL.B University of Stellenbosch 1989 (received award for best student)</p> <p>LL.D University of Stellenbosch, Subject: "Possible Changes in South African Administrative Law with the implementation of a Bill of Rights" (Completed 1992).</p> <p>University of Cape Town: School For Legal Practice February - June 1993</p>	<p>Constitutional Law, Administrative Law, Interpretation of Statutes, Public Law</p> <p>Junior lecturer - Public Law</p> <p>Senior Lecturer - Public and Adjective Law</p> <p>Research: Canada and Germany</p>	<p>Senior Lecturer (Public and Adjective Law), UWC.</p>
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3.	John Raymond Murphy	BA Law & African Politics 1974 -1976 LL B 1980 - 1981 Postgraduate diploma in Tax Law	Preparation and argument of unfair labour practice applications before the industrial court, Assessor, labour appeal Court, Advising on the process of collective bargaining, Preparation of human rights litigation in the Supreme Court, Criminal trials, Trusts, fundraising and charity law including advising NGO's on the provision of fundraising legislation, Mediating wage disputes, Arbitration of unfair dismissal cases.	Senior Lecturer in Law in the Law faculty, UWC. Co-Director - Centre for Social Law, UWC.
4.	Fayeeza Kathree	LL B - University of Natal - 1991 Masters in Law - Georgetown University Law School, Washington D.C.	Labour Law Land Law (informal settlements) Women and the Law	Lecturer - (Human Rights Law) Dept. of Public law, UWC.



5.	Izak Nicolaas Andreas Fredericks	BA - (Pub. Admin) - Wits 1971 LL.B - UWC 1974 LL.M (Harv.) - 1976 Admitted attorney (since 1979)	Constitutional Law and Public International Law	Senior lecturer in Public Law, UWC.
6.	Pierre De Vos	LL.M Columbia University School of Law 1992, Research paper: "A Bill of Rights in a post-apartheid SA - an international human rights analysis." LL.M University of Stellenbosch Law School 1994 (Cum Laude) Thesis: "The relevance of the Directive Principles in the Indian Constitution for a South African constitution." LL.B University of Stellenbosch 1988 B.Comm University of Stellenbosch 1986	Human Rights and Constitutional Law Constitutional guarantees of freedom of speech Civil Rights and Social change (Affirmative action law in the US) Family Law (a feminist perspective) Employment law, International Human Rights, and human Rights and Economic Development.  LL.M Research paper was: "A Bill of Rights in a post-Apartheid South Africa - an international Human Rights analysis."	Full time lecturer in Criminal Law 106 and Public law 105, UWC.



7.	Medard RK Rwelamira	<p>LL.B University of Dar es Salaam 1972</p> <p>LL.M Yale Law School Yale University 1974</p> <p>J.S.D. Yale Law School, Yale University 1980</p>	<p>Fundamental Freedoms and Human Rights of Refugees</p> <p>Human Rights Law and Development</p> <p>Legal Aspects of International Trade and Investments</p> <p>Research:</p> <ol style="list-style-type: none"> <li>1. A legal analysis of the constraints to the return of South African exiles.</li> <li>2. The status of "political offense" in the release of South African prisoners.</li> </ol>	<p>Professor of Law and Chairman, Department of Public and Adjective Law, UWC.</p>
8.	Philip Andrew Black	<p>MCOM University of Stellenbosch 1971</p> <p>MLITT University of Glasgow 1974</p> <p>PHD Rhodes University 1982</p>	<p>Microeconomics, Macroeconomics, Welfare Economics and development Economics, General Equilibrium Theory, Public economics and Regional Economics.</p>	<p>Director: School of Economics Jagger Chair of Economics, School of Economics, University of Cape Town.</p>



9.	Robert Greig Cameron	BA UCT 1980 - 1982 BA (Honours) UCT 1983 M PUB ADMIN UCT 1985 - 1986 PH.D. UCT, 1989 - 1991	Local Government Policy in South africa Administration	Senior Lecturer UCT
10.	Hugh S high	A.B - Texas Christian University 1962 PH.D. - Duke University 1972 J.D.J.D.- Wake Forest University 1981	Finance and Economics: Investments and Portfolio Mgt., Econometrics/Statistics, Public Policy, inc. Resource Economics and Law  Law: Security regulation, anti-trust & Monopoly, Commercial Interests	Lecturer in Economics, UCT.
11.	Peter Harding Dixon Collins	BA Hons in modern languages 1966 MA (OXON) 1968 BA hons in Philosophy London 1971 Accepted as D Phil candidate at Oxford 1973	Politics and Philosophy	Senior Lecturer Dept. of Political Studies UCT.



12.	Hermann Giliomee	BA University of Stellenbosch B.A. MA University of Stellenbosch 1963 D Phil University of Stellenbosch	South African History	Head Dept of Political Studies, UCT.
13.	Donald Britton Maclaughlin	BA University of Yale Masters of Science (Government and Politics) University of London	Comparitive African Government and Law 1 and 11	Senior Lecturer Dept of Political Studies UCT.
14.	Robert B Mattes	PH.D. University of Illinois 1992 M.A. University of Delaware 1986 A.B. Youngston State University 1984	Public opinion and mass behaviour International Relations Theory American National Institutions American Foreign Policy	Co-ordinator, Graduate Program, UCT Dept. of Political Studies.



15.	Robert Arthur Schrire	<p>PH.D. - University of California 1972          Postgraduate Studies in Economics and Administrative Science, Columbia University 1969          M.A. - School of International Service, American University 1968.          B.Com (Economics and Administration)- University of Cape Town 1967</p>	<p>Political Economy          Public Administration and policy Analysis          International Relations          African Studies</p>	<p>Professor of Political Studies          UCT.</p>
16.	Annette Seegers	<p>BA - University of Pretoria 1974          BA (Honours) in Political Science and International Politics 1975          MA - Political Science 1974          PHD - Loyola University of Pretoria 1984</p>	<p>American Government          African Politics          International Relations</p>	<p>Head of Department of Political Studies,          UCT.</p>



17.	David John Welsh	<p>BA (Hons) in Comparative African Government and Law, UCT 1960  BA (Hons) - Oxon 1963  MA - Oxon 1968  PHD - UCT 1969</p>	<p>South African Politics  The Politics of Divided Societies: Comparative Study  The Politics of Liberal Democratic Societies, with special reference to the USA, UK and Germany  Federalism in Comparative Perspective</p> <p>Ongoing examination of political and constitutional change in South Africa.</p>	<p>Professor of Southern African studies in the Department of Political Studies, UCT.</p>
18.	Hendrik Andries Strydom	<p>B Iuris (1977) LLB (1979) LLM (1981) at the University of the Orange Free State.</p>	<p>International Law</p>	<p>Associate Professor in International Law, Faculty of Law, OFS.</p>



19.	JL Pretorius	<p>B.Com (UOFS) 1971  LL.B (UOFS) 1974  BA (Hons) UOFS) 1978  LLD (UOFS) Thesis topic: "The concept of the public interest and the limitation of human rights. 1986</p>	<p>Human Rights Practice  Co-ordinator for the course on constitutional and human rights law for the Civics-project.  Convenor of the Human Rights Education policy Group for the OFS education Forum</p>	<p>Head of the Department of Constitutional Law and Legal Philosophy, Faculty of Law, OFS.</p>
20.	Prof DC du Toit	<p>BA - (UOFS) 1966  LLB - (UOFS) 1968  Iur Drs - (State university of Leiden, Netherlands) 1972</p>	<p>Acted as a consultant for a number of institutions and organisations.  Contributed mainly in the field of legal education (as a member and co-author of the Report of the Sampson Commission)  Curriculum development and labour relations as an advisor of NEHAWU.  Chairperson of the S-OFS Region of the ANC's legal and constitutional Commission.</p>	<p>Professor of Law and head of the Department of Constitutional Law and Philosophy of Law. Faculty of Law, OFS.</p>



21.	Prof E R Jenkins	<p>BA - University of Natal 1956-1958          BA Hons - University of Natal 1965          M Ed (Cum Laude) - University of the Witwatersrand 1972 - 1973          D Litt et Phil - UNISA 1978 - 1980</p>	<p>Languages</p> <p>State President's nomination for membership of National Place Names Committee</p> <p>Membership of SABC language advisory committee</p> <p>Membership of HSRC centre for science development committee</p>	<p>Director of Dept of Student Development, Vista University.</p>
22.	Herman Willem Roos	<p>B Admin - Univ of Stellenbosch 1968          B admin Hons - Univ of Pretoria 1971          M Admin - Univ of Pretoria 1975          D Phil (Public Admin) - Univ of Port Elizabeth 1979          BA Hons Political Studies UNISA 1994</p>	<p>Government Planning</p> <p>Interpretation of laws</p> <p>Administration</p>	<p>Prof Public admin Vista University Mamelodi Campus.</p>



23.	Prof VG Hilliard	<p>BA - Public Admin and Political Science - UCT 1979          BA Hons - UCT 1981          IPM Intermediate diploma 1982          Diploma in theology 1984          M.Admin Degree - Univ of Venda 1987          PHD Degree - Vista University 1991</p>	<p>Public Administration          Local Government and post graduate students          Advanced study of intergovernmental relations          Placement and merit rating in the Kwazulu public service (Research)          Researched acceptable Black local authorities for the Algoa Regional Services Council (PHD)</p>	<p>Lecturer: Public administration , Local Government and post graduate students, VISTA University. Also part - time lecturer at Port Elizabeth Technikon &amp; marker for the College of Public Administration. Part time tutor at UCT and PENTECH.</p>
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24.	Shaun Wilbur Pekeur	<p>BA Political Science 1988  BA Hons - Public Administration 1989  MA Public Administration (University of Stellenbosch)</p>	<p>Public Administration  Local Government and Personnel Management programmes for Civic leaders  Human Resource Management  Public Management Systems and practices  Constitutional Development and Public Policy programmes</p>	<p>Lecturer, Vista University, PE campus.</p>
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25.	Prof A Kofi Etsiah	BA: USA Doctorandus: Netherlands Ph.D: RSA	Political theory and Philosophy Particularly concerned to highlight the interplay between cultural states of affairs and political arrangements. Co-authored a lengthy HSRC report on <u>Possibilities for the          widening of Political          Participation.</u> He has authored articles and chapters in books including: Politics and Calvinism, neo-marxism, Dah's conception of democracy, human rights, media and government, democracy in a post- apartheid SA, conflict resolution, and constitutional development.	Head of the Department and Professor in Political Science Also responsible for Public administration, University of Fort Hare.
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26.	John C Robertson	<p>1985 Conveyancer's Admission (Supreme Court of South Africa)</p> <p>1979 LLB (Rhodes University)</p> <p>1978 Attorney's Admission (Supreme Court of SA)</p> <p>1977 B.Proc (Rhodes University)</p>	<p>Administrative Law and Juridical interpretation</p> <p>Field of Research: Human Rights - Limitation Clauses</p> <p>Would be of interest to Theme Committee 4: Fundamental Rights</p>	<p>Senior Lecturer - Administrative Law and juridical interpretation, University of Fort Hare.</p>
27.	Jaques Labuschagne	<p>B.ADMIN (Hons)</p> <p>LLD</p> <p>Theses: State Control of the Press (MA)</p> <p>Public Employees' Legal Status (LLM)</p> <p>Government Contracts (LLD)</p>	<p>Constitutional Law and Labour Law</p> <p>Field of interest: Government Accountability</p>	<p>Professor of Constitutional and Labour Law, University of Fort Hare.</p>



28.	Obeng Mireku	LLB (Hons) Ghana LLM (WITS)	lecturer, university of Fort Hare, 1994 Teacher, Dept of education, Transkei, 1986-1985 Lecturer, college of professional Studies, Nigeria, 1980-1985 Teacher, Ministry of education, Liberia, 1978-1979 Teacher, Ministry of Education, Ghana, 1970-1974	Lecturer, University of Fort Hare
29.	Johannes Dewald Roode	BSc Potch Univ 1960 BSc(Honns) Potch Univ 1962 MSc Potch Univ 1963 Post degree Course in Numeric Mathematics: University of Hamburg PhD(Mathematics/Operational Research) - Rijksuniversity Leiden, Netherland	Information strategies and Development plans Structuring of Information departments Lecturing, training, career and manpower planning in the computer field Information technology and socio-economic development Paper written: "A Bill of Rights for the Information Age which recognizes the Third World."	Chairperson of the Directorate.



30.	Nicolaas Francois Du plooy	<p>BSc - 1961 PU for CHo Mathematics  MSc - (Distinction) 1963 PU for CHO Physics  MBA - 1971 UPE (Network planning and the control of project costs</p>	<p>Information Systems Science  Systems analysis  Paper written: "A Bill of Rights for the Information Age which recognizes the Third World."</p>	<p>Professor,  University of Pretoria.</p>
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31.	Prof Cheryl Loots	<p>BA - (WITS) 1967  Diploma in Public Relations (Public Relations Inst of SA) 1969  LLB - (WITS) 1972 Vice-chairperson of Law students Council</p>	<p>Civil procedure  Environmental Law</p> <p>Was involved in the formulation of Section 7(4)(b) of the Interim Constitution</p> <p>Have done considerable research on public interest actions and class actions and is presently a member of the South African Law Commission which is to make recommendations on a class action for South Africa.  Have written commentaries on Chapter 7 of the Interim Constitution, in so far as it deals with the jurisdiction, powers and procedures of the courts in constitutional matters.  Will be able to make recommendations concerning the formulation and protection of Environmental rights.</p>	<p>Associate professor in the School of Law, WITS.</p>
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32.	Advocate R.R. Horn	BA, LLB - UCT	Constitutional Law The interpretation and validity of constitutional provisions	Advocate Acted as judge of the Supreme Court in SA (Cape of good Hope Provincial Division) from October 1993 to April 1994).
33.	Dumisa Buhle Ntsebeza	BA. B.PROC (UNISA) LLB (UNITRA)	Exclusive litigation in Human Rights Cases Labour Law Conveyancing Procedural Law and Criminal Justice	Lecturer in Human Rights Law, Criminal Law and Evidence, University of the Transkei.
34.	Mpumelelo Nyoka	B.Juris - LLB University of Fort Hare Majored also in Advanced Constitutional Law in LLB	Constitutional Law Constitutional speaker at seminars/workshops	Attorney



35.	PZ Ndamase	B Juris University of Fort Hare 1973 LL.B University of Fort Hare 1976	Public International and Constitutional Law Mercantile Law Was also Minister of Justice and prisons in the Transkei Government	Chief designate of the Ngqubusini Tribal Authority in the district of Ngqeleni
36.	Ramesh Vassen	B.Juris Unisa	Human Rights Attending on political prisoners Arranged study funds for political prisoners The needs of family and political prisoners Acted on behalf of Political detainees Defence Attorney	Attorney (own practice)



37.	Professor Johann van der Westhuizen	<p>BA Law (cum laude) - Univ of Pretoria 1973</p> <p>LLB (cum laude) - Univ of Pretoria 1975</p> <p>LLD - University of Pretoria ( doctoral thesis dealt with criminal law) Admitted as an advocate of the Supreme Court of SA 1976 Passed National Bar Examination 1988</p>	<p>Fundamental Rights and the Judiciary Jurisprudence Human Rights and Legal History Comparative Law and Roman Law</p>	<p>Director of the Centre for Human Rights, Law Faculty, University of Pretoria Professor and head of the Department of Legal History, Comparative law and Legal Philosophy.</p>
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38.	Tiyanjana Maluwa	<p>LL.B University of Malawi 1977  LL.M University of Sheffield 1980  Ph.D University of Cambridge 1984</p>	<p>Public International Law  Constitutional Law  International Trade  Regional Integration  Jurisprudence  Mercantile Law and  Roman Law  Research in Progress:  Legal aspects of Regional  Integration in Southern  Africa.  The Refugee problem and  the Quest for peace and  security in Southern Africa  in the post-Apartheid era.  The legal framework for  the protection and  management of the  environment in  Southern African  Countries.</p>	Senior Lecturer in Law, UCT.
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39.	Christina Murray	BA, LLB  LLM	University of Stellenbosch University of Michigan (Focussed on American constitutional Law.	<p>Constitutional Law (Includes Constitutional Principles and the Bill of Rights International Law, Human Rights Law, Law of contract, Law of persons Law for social workers, Women and Law, Legislating against racism, Feminist Jurisprudence</p> <p>Taught a seminar at LLM level on Freedom of Expression and Equality</p> <p>Currently supervising three Masters by dissertation on freedom of Expression, Gender Bias in the Supreme Court, and Race in the Magistrates' Courts respectively.</p>	<p>Professor in the Department of Public Law, UCT Also Director of UCT's Law, Race and Gender Research Unit Advocate of the Supreme Court of South Africa.</p>
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40.	Hugh Micah Corder	<p>B Com. LL B - University of Cape Town 1977</p> <p>LL B -Trinity Hall, Cambridge, England 1979</p> <p>D Phil (Jurisprudence) - Keble College, Oxford 1982, Thesis entitled: "The role and attitudes of the South African appellate Judiciary, 1910 - 1950."</p>	<p>Constitutional Law, Administrative Law, State and Ideology, Media Law, Interpretation of Statutes, Jurisprudence and the Judicial Process.</p> <p>Theme of Research: "Empowerment and accountability of the Executive"</p> <p>Constitutional Negotiations: Member of the technical committee on Fundamental Rights during the Transition, Multi-Party Negotiating Process, May to November, 1993. Drafted Chapter 3 on Fundamental Rights in South Africa's 1993 Constitution.</p>	<p>Professor of Public Law, UCT, Head of Department of Public Law 1988-1993</p> <p>Deputy Dean, faculty of Law 1993 -</p>
41.				