

2/4/5/2/6

**CONSTITUTIONAL  
ASSEMBLY**

**THEME COMMITTEE 5**

**JUDICIARY AND  
LEGAL SYSTEMS**

**25 JANUARY 1995**

**ROOM M515**

***DOCUMENTATION***



## CONSTITUTIONAL ASSEMBLY

-----

### THEME COMMITTEE 5 JUDICIARY AND LEGAL SYSTEMS

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

Date : 25th January 1995

Time : 14h00 - 18h30

Venue : Room M515 (Marks Building)

---

#### AGENDA

1. Opening
2. Minutes
3. Matters arising
4. Core Group Report
5. Work Plan and Schedule of Meetings
6. Technical Committees
7. Submissions
8. General
9. Closure

---

**H. Ebrahim**  
**Executive Director**  
**Constitutional Assembly**

**Enquiries:** Neol Taft & Eunice van Eck (Tel: 4032278/94)

**CONSTITUTIONAL ASSEMBLY**  
**MINUTES OF**  
**THEME COMMITTEE 5**  
**JUDICIARY AND LEGAL SYSTEMS**  
**MONDAY 14TH NOVEMBER 1994 (AT 10H00)**

**PRESENT:** (DPA Schutte, Chairperson)

Dalling DJ  
De Lange J  
De Ville R  
Ebrahim AG  
Gandhi E  
Gibson DHM  
Groenewald RH  
Hofmeyr WA  
Jana DP  
Jassat EE  
Le Roux JW (Alternate)

Mahlangu GL  
Mduntyana SN  
Mkhatshwa S  
Moeti SE  
Mogale MPE (Alternate)  
Moosa MW  
Mushwana ML (Alternate)  
Nel AC  
Sonjica BP  
Van Heerden F

Noel Taft and Eunice van Eck were in attendance.

**APOLOGIES:**

Matthee PA  
Ngwane L  
Saloojee RAM  
Van der Merwe JH

**1. OPENING AND WELCOME**

- 1.1 The meeting was opened by Mr DPA Schutte who chaired the meeting.
- 1.2 The agenda was adopted.

**2. MINUTES**

The minutes of the previous meeting were adopted.

**3. MATTERS ARISING**

- 3.1 The documentation retrieved from Kempton Park is being processed and will be followed up by the Managing Secretary.

#### **4. WORK PROGRAMME**

4.1 The Work Programme was adopted.

4.2 It was agreed that the following additions be made to the list of structures and organisations which need to be contacted -

- a) *all* Judge Presidents
- b) *all* Attorney Generals
- c) *all* State Attorneys
- d) the Dean of each Law Faculty at all universities
- e) President of the Constitutional Court
- f) all participants at the Legal Forum

4.3 Parties/members are allowed to give further input on the Work Programme at the Constitutional Committee meeting in December 1994.

#### **5. TECHNICAL EXPERTS**

5.1 To avoid overlapping of technical experts between Theme Committees it was agreed that each party would submit the names of 3 Technical Experts by Friday, 18th November for submission to the Constitutional Committee.

5.2 The appointment of Technical Experts will be negotiated at Constitutional Committee level.

5.3 It was requested that the Constitutional Committee make it's final selection of Technical Experts in consultation with the Core Group.

#### **6. TIME FRAMES FOR WORK SCHEDULE**

6.1 It was agreed that all relevant persons/organisations be contacted to make submissions based on the Work Programme.

6.2 The Core Group was mandated to deal with all matters relating to the Work Programme.

6.3 The next Theme Committee meeting was scheduled for 24th January, 1995.

#### **7. CLOSURE**

The meeting rose at 10.29am.

**CONSTITUTIONAL ASSEMBLY**

**CA BRIEFING DOCUMENT**

**BRIEFING DOCUMENT FOR JOINT MEETING OF  
CHAIRPERSONS OF THEME COMMITTEES**

**23 JANUARY 1995**

**1. Introduction**

This document is intended to serve as a basis of discussion and a guideline for Chairpersons and Core Groups. It is concerned with the Work Programme of the Constitutional Assembly as agreed to by the Constitutional Committee of 2 December 1994.

The main purpose of the document is to look at the role of Core Groups and Chairpersons in ensuring that the work of the Constitutional Assembly progresses within the framework agreed to, and that the final deadline of May 1996 is adhered to.

**2. Work Programme**

The Constitutional Committee endorsed the enclosed Work Programme as a broad framework for 1995. The meeting emphasised the need for flexibility and stressed that the programme was a framework and should not be seen as a rigid time-table. It was agreed that ongoing evaluation and adjustment would take place within this framework as work proceeded.

The Work Programme is the culmination of the collective efforts of members of the CA and its structure. In particular, it is a product of several months of rigorous debate by Theme Committees who have produced work plans in accordance with the terms of reference as set out in the Resolution of 5 September 1994.

These work plans have been compiled into a comprehensive work programme for the CA as a whole, taking into account both the work plans of Theme Committees themselves, and a technical survey of the constitutional issues noted by Theme Committees. The programme also took into account the need for a developed programme of public participation including media and community liaison.

The overriding consideration in compiling the Work Programme of course has been time constraints. Sec 73(1) of the Constitution requires the Constitutional Assembly to complete the process of drafting the new constitutional text by no later than May 1996. The Constitutional Committee meeting of 31 October 1994 resolved to produce a draft text of the new Constitution by 14 July 1995. In this regard the Theme Committees are required to complete their reports and the major part of their work by 30 June 1995.

In an attempt to ensure that the CA does abide by the final deadline of May 1996 for completion of its task, it has been opportune to devise a Work Programme which has divided the work of each Theme Committee into ten major "blocks". Each "block" represents a cycle of meetings of the various structures of the CA, culminating each time in a meeting of the Assembly itself as the supreme decision-making body. During each of these "blocks" it has been suggested that Theme Committees deal with specified subjects or aspects of their particular constitutional theme.

The Constitutional Committee has also agreed to the enclosed Schedule of Meetings for the first half of 1995. Once again this schedule is regarded as a framework which will be adjusted when required.

This schedule has however been carefully planned to allow Theme Committees to receive submissions, process these and prepare reports timeously for the Constitutional Committee, which in turn reports to the Constitutional Assembly. It is important that this schedule is adhered to as closely as possible to avoid unnecessary delays .

It is important, as outlined above, that the schedule is looked at as a whole. Any adjustment will have to take into account the necessary cycle of meetings to ensure that the CA process flows smoothly and that all structures are afforded the necessary time to play their part.

It should be noted that the Constitutional Committee accepted the four sub-committees of Theme Committee 6 and further agreed that the question of establishing other sub-committees would be considered later. It was also agreed to that all joint meetings of Theme Committees would be centrally co-ordinated by the Secretariat.

### **3. Management**

This Work Programme and Schedule of Meetings will require careful management if it is to achieve its objective of ensuring a new constitution by May 1996.

The role of the Management Committee is spelled out in detail in the CA Resolution of 5 September 1994. The Management Committee is charged in brief with co-ordinating the work of all Theme Committees, and preparing the agenda and reports to be presented to the Constitutional Committee.

The major task of ensuring that deadlines are adhered to and that the work programme proceeds according to plan, however will fall to Theme Committees themselves.

To this end, each Theme Committee, has a Core Group and Chairpersons responsible for managing and co-ordinating the work programme of the Theme Committee.

#### 4. Role of Core Groups

The Core Group consists of 7 - 8 members. Its composition is as follows  
2 ANC; 1 NP; 1 PAC; 1 DP; 1 FF; 1 IFP.

The Core Group is the managing Committee of the Theme Committee and deals with process matters on behalf of the Theme Committee. Its task is to ensure that the work of the Theme Committee proceeds smoothly.

The Core Group manages the Theme Committee in the following way :

- a) prepares agenda for Theme Committee meetings;
- b) prepares reports for Theme Committee consideration;
- c) co-ordinates the activities of the Theme Committee;
- d) attends other meetings on behalf of the Theme Committee; and
- e) ensures that Theme Committee tasks and decisions are dealt with accordingly.

The Core Group, as outlined above, has a major role to play in *planning* the work of its particular Theme Committee and ensuring that all necessary documentation and reports are compiled and received according to deadline.

#### 5. Role of Chairpersons of Theme Committees

In addition to the Core Group, the Chairpersons of Theme Committees have a pivotal role to play in managing the work of Theme Committees.

Their principal role is to conduct the proceedings of both the Core Group and Theme Committee meetings, and thus also *direct* the proceedings of both these bodies. The importance of this role cannot be over-emphasised. The Chairpersons will be relied upon to keep meetings, and the Theme Committee, on target and ensure that they achieve their objectives.

The extremely tight time frames of the CA process as a whole, will make the work of Chairpersons more demanding than usual. It is essential that Chairpersons keep these time frames in mind at all times and that they remind Theme Committee members that work must proceed according to schedule.

Both Chairpersons and Core Groups will also play a key role in monitoring and evaluating the work of the Theme Committee, and thus suggesting adjustments to the schedule when required.

Other duties of the Chairpersons will include :

- a) attending to the ratification and approval of all minutes and reports; ( It was agreed at the Constitutional Committee meeting of 2 December 1994, that minutes of Theme Committee meetings would be available for the Chairperson to sign within 24 hours. They would be circulated to members at the start of the next meeting.)
- b) ensuring that Theme Committee members sign the attendance register;
- c) ensuring that Theme Committee members table written apologies; and
- d) consulting the Secretariat on procedural and administrative issues during Theme Committee meetings.

Most members of the CA have very demanding individual schedules. Because of the time frames of the CA process, it is necessary for this reason alone, that the process receives the highest priority and this will demand the commitment of all members of the CA. Chairpersons and members of the Core Group will need to play an exemplary role to ensure the fullest participation of all members of Theme Committees in the work of the CA.

## **6. Role of Secretariat**

Each Theme Committee has attached to it, a Managing and Minute Secretary to provide the necessary administrative support and back-up it requires to work efficiently and effectively.

These staff are part of a larger collective, the Secretariat, which is one of the key departments of the CA Administration as a whole. The Secretariat is also the key liaison point between the Theme Committees and other departments in the Administration.

The Management Committee has agreed that all requests for research and any other assistance from the Administration should therefore be channelled through the Secretariat. It should be noted that requests from Theme Committees, or Technical Committees on behalf of Theme Committees, for research and/or other opinion or assistance should all be directed to the Administration where the final decision will be taken, in consultation with the Management Committee, whether an outside agency or person(s) be commissioned or contracted for the job.

The Secretariat is purely an administrative body and will not engage in the political process of the Constitutional Assembly.

It is essential that Chairpersons maintain close links with the Secretariat and with their Managing Secretary in particular. This will ensure that the Secretariat is able to keep abreast of developments and provide the Theme Committee with all relevant assistance.

It is important to note however, that members of the Secretariat, as with all staff of the CA Administration, account to the Executive Director and not directly to members of the CA itself.

## **7. Theme Committee Reports**

The entire Work Programme depends to a great extent on the timely production and circulation of reports by Theme Committees.

The Constitutional Committee of 2 December 1994 agreed to the following :

- i) the reports would be presented to the Constitutional Committee for debate at the Constitutional Assembly as and when a particular constitutional issue identified within the work plan schedule has been processed by a Theme Committee;
- ii) these reports would include details of contentious and non-contentious issues and suggested approaches;
- iii) Theme Committee reports would be drafted by Theme Committee members with the administrative assistance of the Secretariat;
- iv) should political parties be unhappy with the format of reports, this should be discussed in their Theme Committees. The issue would only be brought to the Constitutional Committee if the Theme Committee could not resolve it.

## **8. Submissions and the role of Political Parties**

Finally, the entire Work Programme and Schedule of Meetings as agreed to by the Constitutional Committee, is based on the assumption that submissions will be received timeously to allow these to be processed and passed on to Theme Committees for their consideration.

Without the relevant submissions, there will be little substance for Theme Committees to consider. In fact, the existence of Theme Committees is to process submissions and views and pass these on in the form of the agreed reports to the Constitutional Committee.

It stands to reason that if the relevant submissions are not received timeously, the entire programme could be jeopardised.

It has been convenient for the CA's own internal purposes to structure itself along Theme Committee lines. It has been further necessary for each Theme Committee to devise its own detailed work plan. However, it would be unrealistic to expect civil society and the broader public to participate

according to the terms of reference and work plan of each Theme Committee.

Public participation and submissions can be expected to be much more general. To expect anything else would be imposing academic constraints which would in fact serve to inhibit rather than encourage public participation. It will of course be possible to solicit public views and submissions on particular controversial subjects. In general however, even the more organised sectors of society will undoubtedly make a single general contribution to the CA. These submissions will also not necessarily be staggered along the lines of the adopted work programme.

Public interest will increase as the work of the CA proceeds. A major advertising campaign early in 1995 will seek to arouse public interest, and invite submissions. However, it can be expected that the majority of public submissions will arrive later on in the process once momentum begins to gather force.

The upshot of all the above, is that political parties represented in the CA, will need to ensure their submissions to the Theme Committees are made timeously and early on in the process in order to ensure that Theme Committees have some substance to deal with in the first few months of this year. This point needs to be borne in mind by all political parties in the CA in planning their party agendas for 1995.

The Constitutional Committee agreed to the following procedure regarding the receipt of submissions :

- i) all submissions should be tabled through the Administration;
- ii) as far as possible, all authors of submissions would be asked to provide executive summaries; and
- iii) ideally, all Theme Committee members would receive copies of submissions received for that particular Theme Committee, unless these are too bulky for reproduction. Summaries of lengthy submissions would be provided at the discretion of Core Groups.

**CONSTITUTIONAL ASSEMBLY**

**WORK PLAN AND SCHEDULE  
OF MEETINGS**

**CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 5  
JUDICIARY AND LEGAL SYSTEMS**

***WORK PROGRAMME***

### RECOMMENDED WORK PROGRAMME

No	TC 1	TC 2	TC3	TC 4	TC 5
1.	1. Democracy 2. Character of State	1. Separation of Powers	1. The Nature of the Provincial System and Local Government	1. Constitutional Principle II	1. The Relationship between different levels of the Court 2. A Single or Split Judiciary
2.	3. Single Sovereign State 4. Supremacy of the Constitution	2. Structure of Government	2. Allocation of Powers 3. Legislative Competence	2. Equality 3. Human dignity 4. Privacy 5. Freedom and Security of the Person 6. Life 7. Religion, Belief and Opinion 8. Freedom of Expression	3. Constitutional Court 4. Other Court Structures
3.	5. Separation between Church and State 6. Economic Constitution 7. International law	3. Traditional Authorities	4. Provincial Legislative Authority (excluding electoral system)	9. Freedom of Association 10. Freedom of Movement 11. Assembly, Demonstration and Petition 12. Citizen's Rights	5. Traditional Authorities and Customary Law
4.	8. Representative Government	4. Volkstaat	5. Provincial Executive Authorities	13. Political Rights 14. Language and Culture 15. Residence 16. Environment	6. Structures dealing with Appointments (Judicial Service Commission & Magistrates Commission)
5.	9. Accountable Government 10. Equality	5. Electoral System	6. Local Government	17. Servitude and Labour 18. Economic Activity 19. Property 20. Labour Relations	7. Other Judicial Institutions (eg AG and State Attorney)
6.	11. Freedom of Information	6. Amendments to Constitution [National Second Chamber]	7. Electoral System of Provincial Government	21. Administrative Justice 22. Access to Information 23. Access to Courts 24. Legal Representation	8. General (Court Language, Interpretation of Laws & Amnesty)
7.	12. Suffrage 13. Citizenship			25. Children 26. Education	9. Transitional Arrangements
8.	14. Language		8. Financial and Fiscal Relations	27. State of Emergency 28. Suspension and Limitation of Rights	10. Legal Education 11. Legal Profession
9.	15. Name and Symbols			29. Customary and Traditional law 30. Group & Minority Rights	
10.	16. Preamble				

<b>THEME COMMITTEE 6 - SUB-THEMES</b>				
<b>No</b>	<b>Public Administration</b>	<b>Financial Institutions &amp; Public Enterprise</b>	<b>Transformation &amp; Monitoring</b>	<b>Security Apparatus</b>
1.	1. Public Service	1. Financial and Fiscal Commission 2. Financial Institutions and Public Enterprise	1. Commission on Gender Equality	1. Supremacy of the Constitution, Accountability and Control of the Security Forces 2. Conduct in the National Interest
2.				
3.			2. Public Protector	2. Police
4.	2. Election Commission	3. Auditor-General, Reserve Bank, the Budget Procurement and National Revenue Fund		
5.			3. Human Rights Commission	3. Correctional Services
6.				
7.			4. Commission on Restitution of Land Rights	4. Defence
8.				
9.				5. Intelligence
10.				

**CONSTITUTIONAL ASSEMBLY SCHEDULE**  
**23 JANUARY - 6 JULY 1995**

<b>Date</b>	<b>Event</b>	<b>Time</b>	<b>Venue</b>
Monday 23 January	<b>Management Committee</b> Chairpersons meet with all Chairs of Theme Committees <b>Opening of Parliament</b> <i>Final deadline for Submissions for Block One</i>	08h00 - 10h00 10h30 - 13h00  14h15	V16 M515
Tuesday 24 January	<b>Core Group Meetings</b> <b>Constitutional Assembly</b>	08h30 - 12h00 14h00 - 18h00	
Wednesday 25 January	Theme Committee 1 Theme Committee 2 Theme Committee 3 Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M515 M46 E249 M46 M515 E249
Thursday 26 January	Theme Committee 4 Theme Committee 5 Theme Committee 6 Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M46 M515 E249 M515 M46 E249
Friday 27 January	<b>Management Committee</b> <b>Core Group Meetings</b> <b>Party Caucuses</b>	08h00 - 10h00 10h30 - 13h00 14h00 - 16h00	V16
Saturday 28 January	<b>Public Participation Event</b>		
Sunday 29 January	<b>Public Participation Event</b>		
Monday 30 January	Theme Committee 1 Theme Committee 2 Theme Committee 3 <b>Constitutional Committee</b> Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h15 - 16h00 16h30 - 21h00 16h30 - 21h00 16h30 - 21h00	M515 M46 E249 M46 M46 M515 E249
Tuesday 31 January	Theme Committee 4 Theme Committee 5 Theme Committee 6 Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M46 M515 E249 M515 M46 E249

Wednesday 1 February	Theme Committee 1 Theme Committee 2 Theme Committee 3 Theme Committee 4 Theme Committee 5 Theme Committee 6 <i>Deadline for Drafting of Reports for Constitutional Committee</i> <i>Deadline for Submissions for Block Two</i>	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M515 M46 E249 M46 M515 E249
Thursday 2 February	Theme Committee 4 Theme Committee 5 Theme Committee 6 Theme Committee 1 Theme Committee 2 Theme Committee 3 <i>Deadline for Submission of Reports for Constitutional Committee</i>	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M46 M515 E249 M515 M46 E249
Friday 3 February	<b>Management Committee</b> Core Group Meetings Party Caucuses	8h00 - 10h00 10h30 - 13h00 14h00 - 16h00	V16
Saturday 4 February	Free		
Sunday 5 February	Free		
Monday 6 February	<b>Management Committee</b> <b>Constitutional Committee</b> <b>- END OF BLOCK ONE -</b>	08h00 - 10h00 10h30 - 18h00	V16 M46
Tuesday 7 February	Theme Committee 1 Theme Committee 2 Theme Committee 3 Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M515 M46 E249 M46 M515 E249
Wednesday 8 February	Theme Committee 4 Theme Committee 5 Theme Committee 6 Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M46 M515 E249 M515 M46 E249
Thursday 9 February	Theme Committee 1 Theme Committee 2 Theme Committee 3 Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M515 M46 E249 M46 M515 E249
Friday 10 February	<b>Management Committee</b> Core Group Meetings Party Caucuses	08h00 - 10h00 10h30 - 13h00 14h00 - 16h00	V16
Saturday 11 February	Public Participation Event		
Sunday 12 February	Public Participation Event		

Monday 13 February	Management Committee Constitutional Assembly	08h00 - 10h00 10h15 - 18h00	V16
Tuesday 14 February	Theme Committee 4 Theme Committee 5 Theme Committee 6 Theme Committee 1 Theme Committee 2 Theme Committee 3 <i>Deadline for Drafting of Reports for Constitutional Committee</i>	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M46 M515 E249 M515 M46 E249
Wednesday 15 February	Theme Committee 1 Theme Committee 2 Theme Committee 3 Theme Committee 4 Theme Committee 5 Theme Committee 6 Deadline for Submissions for Block Three	08h30 - 13h00 08h30 - 13h00 08h30 - 13h00 14h00 - 18h30 14h00 - 18h30 14h00 - 18h30	M515 E249 E249 M46 M515 M46
Thursday 16 February	Management Committee Party Caucuses <i>Deadline for Submission of Reports for Constitutional Committee - END OF BLOCK TWO -</i>	08h00 - 12h00 14h00 - 16h30	V16
Friday 17 February	President's Address to Parliament		
Saturday 18 February	Public Participation Event		
Sunday 19 February	Public Participation Event		
Monday 20 February	Theme Committee 4 Theme Committee 5 Theme Committee 6 Management Committee Constitutional Committee Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 12h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M46 M515 E249 V16 M46 M515 M46 E249
Tuesday 21 February	Debate on President's Address		
Wednesday 22 February	Debate on President's Address <i>Deadline for Submissions for Block Four</i>		
Thursday 23 February	Management Committee Party Caucuses Debate on President's Address	08h00 - 10h00 10h15 - 13h00 14h00	V16
Friday 24 February	Debate on President's Address		
Saturday 25 February	Public Participation Event		
Sunday 26 February	Public Participation Event		

Monday 27 February	Theme Committee 1 Theme Committee 2 Theme Committee 3 <b>Management Committee</b> <b>Constitutional Assembly</b> Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M515 M46 E249 V16  M46 M515 E249
Wednesday 1 March	<b><i>Deadline for Submission of Reports for Constitutional Committee - END OF BLOCK THREE -</i></b>		
Thursday 2 March	<b>Management Committee</b> Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 4 March	Public Participation Event		
Sunday 5 March	Public Participation Event		
Monday 6 March	Theme Committee 4 Theme Committee 5 Theme Committee 6 <b>Management Committee</b> <b>Constitutional Committee</b> Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M46 M515 E249 V16 M46 M515 M46 E249
Thursday 9 March	<b>Management Committee</b> Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 11 March	Public Participation Event		
Sunday 12 March	Public Participation Event		
Monday 13 March	Theme Committee 1 Theme Committee 2 Theme Committee 3 <b>Management Committee</b> <b>Constitutional Assembly</b> Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M515 M46 E249 V16  M46 M515 E249
Wednesday 15 March	<b><i>Budget Deadline for Submission of Reports for Constitutional Committee - END OF BLOCK FOUR - Deadline for Submissions for Block Five</i></b>		
Thursday 16 March	<b>Management Committee</b> Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 18 March	Public Participation Event		

Sunday 19 March	Public Participation Event		
Monday 20 March	Theme Committee 4 Theme Committee 5 Theme Committee 6 Management Committee Constitutional Committee Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M46 M515 E249 V16 M46 M515 M46 E249
Thursday 23 March	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	
Saturday 25 March	Public Participation Event		
Sunday 26 March	Public Participation Event		
Monday 27 March	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee Constitutional Assembly Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M515 M46 E249 V16  M46 M515 E249
Wednesday 29 March	<b><i>Deadline for Submission of Reports for Constitutional Committee - END OF BLOCK FIVE - Deadline for Submissions for Block Six</i></b>		
Thursday 30 March	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 1 April	Public Participation Event		
Sunday 2 April	Public Participation Event		
Monday 3 April	Theme Committee 4 Theme Committee 5 Theme Committee 6 Management Committee Constitutional Committee Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M46 M515 E249 V16 M46 M515 M46 E249
Thursday 6 April	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 8 April	Public Participation Event		
Sunday 9 April	Public Participation Event		
Monday 10 April	Management Committee Constitutional Assembly	08h00 - 10h00 10h15 - 18h00	V16
Tuesday 13 - 23 April	<b><i>Easter Recess</i></b>		

Monday 24 April	Theme Committee 1 Theme Committee 2 Theme Committee 3 <b>Management Committee</b> <b>Constitutional Committee</b> Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 22h30 18h00 - 22h30 18h00 - 22h30	M515 M46 E249 V16 M46 M46 M515 E249
Thursday 27 April	<b>Freedom Day</b>		
Saturday 29 April	Public Participation Event		
Sunday 30 April	Public Participation Event		
Monday 1 May	<b>Workers Day</b>		
Wednesday 3 May	<b>Deadline for Submission of Reports for Constitutional Committee - END OF PART SIX - Deadline for Submissions for Block Seven</b>		
Thursday 4 May	<b>Management Committee Party Caucuses</b>	08h00 - 10h00 10h15 - 13h00	V16
Saturday 6 May	Public Participation Event		
Sunday 7 May	Public Participation Event		
Monday 8 May	Theme Committee 4 Theme Committee 5 Theme Committee 6 <b>Management Committee</b> <b>Constitutional Committee</b> Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 22h30 18h00 - 22h30 18h00 - 22h30	M46 M515 E249 V16 M46 M515 M46 E249
Thursday 11 May	<b>Management Committee Party Caucuses</b>	08h00 - 10h00 10h15 - 13h00	V16
Saturday 13 May	Public Participation Event		
Sunday 14 May	Public Participation Event		
Monday 15 May	Theme Committee 1 Theme Committee 2 Theme Committee 3 <b>Management Committee</b> <b>Constitutional Assembly</b> Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 22h30 18h00 - 22h30 18h00 - 22h30	M515 M46 E249 V16 M46 M515 E249
Wednesday 17 May	<b>Deadline for Submission of Reports for Constitutional Committee - END OF BLOCK SEVEN - Deadline for Submissions for Block Eight</b>		

Thursday 18 May	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 20 May	Public Participation Event		
Sunday 21 May	Public Participation Event		
Monday 22 May	Theme Committee 4 Theme Committee 5 Theme Committee 6 Management Committee Constitutional Committee Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M46 M515E2 49 V16 M46 M515 M46 E249
Thursday 25 May	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 27 May	Public Participation Event		
Sunday 28 May	Public Participation Event		
Monday 29 May	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee Constitutional Assembly Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M515 M46 E249 V16  M46 M515 E249
Wednesday 31 May	<b><i>Deadline for Submission of Reports to Constitutional Committee - END OF BLOCK EIGHT - Deadline for Submissions for Block Nine</i></b>		
Thursday 1 June	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 3 June	Public Participation Event		
Sunday 4 June	Public Participation Event		
Monday 5 June	Theme Committee 4 Theme Committee 5 Theme Committee 6 Management Committee Constitutional Committee Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M46 M515 E249 V16 M46 M515 M46 E249
Thursday 8 June	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 10 June	Public Participation Event		
Sunday 11 June	Public Participation Event		

Monday 12 June	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee Constitutional Assembly Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 13h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M515 M46 E249  M46 M515 E249
Wednesday 14 June	<b><i>Deadline for Submission of Reports to Constitutional Committee - END OF BLOCK NINE - Deadline for Submissions for Block Ten</i></b>		
Thursday 15 June	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 17 June	Public Participation Event		
Sunday 18 June	Public Participation Event		
Monday 19 June	Theme Committee 4 Theme Committee 5 Theme Committee 6 Management Committee Constitutional Committee Theme Committee 1 Theme Committee 2 Theme Committee 3	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 12h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M46 M515E2 49 E249 V16 M515 M46 E249 E249
Thursday 22 June	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 24 June	Public Participation Event		
Sunday 25 June	Public Participation Event		
Monday 26 June	Theme Committee 1 Theme Committee 2 Theme Committee 3 Management Committee Constitutional Assembly Theme Committee 4 Theme Committee 5 Theme Committee 6	08h30 - 12h00 08h30 - 12h00 08h30 - 12h00 12h00 - 12h00 14h00 - 17h00 18h00 - 21h30 18h00 - 21h30 18h00 - 21h30	M515 M46 E249 V16 M46 M46 M515 E249
Wednesday 28 June	<b><i>Deadline for Submission of Reports to Constitutional Committee - END OF BLOCK TEN -</i></b>		
Thursday 29 June	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Saturday 1 July	Public Participation Event		
Sunday 2 July	Public Participation Event		
Monday 3 July	Constitutional Committee	10h00 - 18h00	M46

Thursday 6 July	Management Committee Party Caucuses	08h00 - 10h00 10h15 - 13h00	V16
Friday 7 July - 7 August	<i>Mid - Year Recess</i>		
Monday 10 July	Constitutional Assembly	10h00 - 17h00	

**CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 5  
WORK PLAN**



**PART I: STRUCTURES RELATING TO THE ADMINISTRATION OF JUSTICE**

**A. CONSTITUTIONAL COURT**

- (1) Levels of courts [Section 98]
  - (2) Seats of court [Section 106]
  - (3) Jurisdiction of courts [Section 98]
  - (4) Criteria for appointment [Section 98, 99]
  - (5) Composition of Constitutional Court [Section 99]
  - (6) Number of judges [Section 98(1)]
  - (7) Procedure for appointment [Section 97(2)(a) (b) & 99]
  - (8) Term of office [Section 99, 97.2(b)]
  - (9) Review/removal [Section 104(4)]
  - (10) Remuneration and conditions of service [Section 104 (2)]
  - (11) Court Procedures:
    - (a) Engaging the Court [Section 100]
    - (b) Relationship between Constitutional Court and Supreme Court [Section 102]
    - (c) Appeals: Supreme Court to Constitutional Court [Section 102]

**B. OTHER COURT STRUCTURES**

**1. Structures**

**a) Levels of courts**

- i) Appellate Division [Section 101]
- ii) Supreme Court [Section 101]
- iii) Magistrate Courts [Section 103]
- iv) Specialized Courts, incl. community courts [Section 103]
- v) Traditional Courts

**b) Seats of Court**

- i) Appellate Division [Section 106]
- ii) Supreme Court [Section 101]

**c) Jurisdiction of Courts**

- i) Supreme Court [Section 101]
- ii) Magistrates Court
- iii) Specialised courts, incl community courts
- iv) Traditional courts

**2. Personnel**

- a) Structures dealing with appointments**
  - i) Judicial Service Commission
    - composition [Section 105(1)]
    - functions [Section 105(2)]
  - ii) Magistrates Commission [Section 109]
- b) Criteria for appointment**
  - i) Supreme Court [Section 104(1)]
- c) Composition of courts**
  - i) Heads of courts
    - Supreme Court [Section 97]
  - ii) Number of Judges
- d) Procedure for appointment**
  - i) Supreme Court [Section 104]
    - Head
    - Judges
  - ii) Magistrates Court
  - iii) Other courts
- e) Term of office**
  - i) Supreme Court [Section 97.2(b)]

		<ul style="list-style-type: none"> <li><b>f) Review / removal</b> <ul style="list-style-type: none"> <li>i) Supreme Court [Section 104(4)]</li> <li>ii) Magistrates Court</li> </ul> </li> <li><b>g) Remuneration and conditions of service</b> <ul style="list-style-type: none"> <li>i) Supreme Court [Section 104 (2)]</li> </ul> </li> </ul>
		<p><b>3. Court Procedures</b></p> <ul style="list-style-type: none"> <li>a) Appeals: Magistrates Court to Supreme Court [Section 103]</li> <li>b) Appeals: Supreme Court to Appellate Division</li> </ul>
		<p><b>C. OTHER JUDICIAL STRUCTURES</b></p> <p><b>1. Attorneys General</b></p> <ul style="list-style-type: none"> <li>a) Status</li> <li>b) Independence/Accountability</li> <li>c) Appointment</li> <li>d) Provincially based or national</li> </ul> <p><b>2. State Attorney</b></p> <p><b>PART II: LEGAL EDUCATION</b></p> <p><b>PART III: LEGAL PROFESSION</b></p>

**PART IV: GENERAL**

- A Court languages [Section 107]
- B Interpretation of laws [Section 232, 233]
- C Amnesty [Postamble]

**PART V: TRANSITIONAL ARRANGEMENTS:**

- A Continuation of existing law [Section 229]
- B Repeal of laws [Section 230]
- C International law and continuation of agreements. [Section 231]
- D Judiciary [Section 241 (1) - (10)]
- E Rationalisation of courts [Section 242]

**PART VI: TRADITIONAL AUTHORITIES, INSTITUTIONS, STATUS AND ROLE OF TRADITIONAL LEADERSHIP AND INDIGENOUS LAW**

- i) Recognition of indigenous law [Section 181]
- ii) Traditional Authorities and Indigenous Law. [Section 182]
- iii) Provincial House of Traditional Leaders. [Section 183 (1) and (2)]
- iv) Council of Traditional Leaders. [Section 184 (1) - (5)]
- v) Customary Courts
- vi) Provision for Traditional Monarchy in Provincial Constitutions. [Section 160 (3) (b)]

**NB PLEASE NOTE THE INTERPRETATION TO BE PLACED ON THIS SUBJECT MATTER IF THE PROPOSAL IN PARAGRAPH (c) IS IMPLEMENTED**

<b>(b)</b>	<b>Issues to be dealt with on a priority basis</b>	<ul style="list-style-type: none"> <li>i) Matters relating to the Constitutional Court</li> <li>ii) The relationship between the Constitutional Court and other courts</li> <li>iii) Issues relating to the appointment of judicial officers</li> <li>iv) Position of Traditional Authorities and indigenous law</li> </ul>
<b>(c)</b>	<b>Areas of overlap with other Theme Committees</b>	<p>There is a clear overlap between the mandate of Theme Committees 2, 5 and 6 with regard to the issue of tribal authorities. Representatives of the three relevant core committees met on the 26th October to discuss this matter. At the meeting it was agreed that the Theme Committees would interpret their mandates as follows to avoid duplication:</p> <p><b>Theme Committee 2:</b> Paragraph 2.10 will be interpreted as referring to the representation of traditional leaders in structures of government other than traditional structures.</p> <p><b>Theme Committee 5:</b> Paragraphs 5.2 and 5.4 will be interpreted as referring to indigenous law and tribal/customary courts.</p> <p><b>Theme Committee 6:</b> Paragraph 6.7 will be interpreted as referring to the representation of tribal leadership in tribal/customary structures.</p> <p>It was further more agreed at the said meeting that, to avoid duplication, a commission or joint committee should be set up consisting of members of all three Theme Committees to take evidence and representations on all three of the above mentioned aspects.</p> <p>It is suggested that should an area of overlap occur in future with regard to the work of this Theme Committee and other Theme Committees, it should be attempted to reach agreement on a division of the matters to be dealt with. If this is not possible joint committees should be considered to deal with the relevant matter.</p>

(d)	<b>Issues to be dealt with in Commissions</b>	It is too early to identify the need for commissions on certain issues
(e)	<b>Separate Reports</b>	If the proposal of a joint committee or a commission for tribal authorities and indigenous law is accepted then it is clear that a separate report will be made on this aspect. It is too early to contemplate other reports.
(f)	<b>Number of Reports<sup>1</sup> required</b>	Too early to say
(g)	<b>Structures and People to be consulted</b>	<p>(i) The organisations, groups and persons indicated on the attached list will be notified as well as the public at large. There can be further additions to the list.</p> <p>(ii) All traditional authorities and traditional leaders, academics in the relevant field, womens' interest groups, relevant monarchs and the public at large. The traditional leaders will also be consulted on the question of any further persons who should be notified.</p>
(h)	<b>Community and media liaison assistance required.</b>	Administrative assistance to send invitations to interested persons and organisations and to draft and release press statements. As far as traditional authorities are concerned, at least the services of one or more field workers will be required because reliance on written communication may not be sufficient.
(i)	<b>Technical Assistance Required</b>	Experts in the legal field relating to the issues to be dealt with as listed above will be required.