

2/4/3/3/1/28

CG3/31DISC

# CONSTITUTIONAL ASSEMBLY

## CORE GROUP 3

### RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

(To be advised)

E249

(Immediately following TC Meeting)

#### DOCUMENTATION

(Discussion between ANC & NP)

*Embargoed until 18h00 8/8/95*

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*Embargoed until 18h00 8/8/95*

## CONSTITUTIONAL ASSEMBLY

### MEETING OF CORE GROUP THEME COMMITTEE 3

#### RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

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

Date : 7 - 8 August 1995

Time : Immediately following Theme Committee meeting of 7 - 8/8/95

Venue : E249

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#### AGENDA

1. Opening
  2. Minutes of the previous meeting 31/7/95 (pp 2-4)
  3. Matters arising
  4. Reports
  5. Work Programme
  6. Hearing on Local Government
  7. Report on Competencies to CC 4/8/95
  8. International Republican Institute (Letter)
  10. General
  11. Closure
- 

H Ebrahim  
Executive Director  
Constitutional Assembly

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Enquiries: Mbaso Mxenge, Regis House Room 9-09 (tel 403 2108)  
Sandra Haydon, Regis House Room 9-08 (tel 403 2275)  
Beverline Thomas, (Admin Assist) Room 1015 (tel 245 031)  
*(If no answer, please phone 245 031 & leave a message)*

**CONSTITUTIONAL ASSEMBLY**

**DISCUSSION BETWEEN  
THE ANC & NP  
OF  
CORE GROUP 3  
RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT  
TUESDAY 1 AUGUST 1995  
(Following Theme Committee meeting)**

**PRESENT**

Du Toit DC  
Carrim YI

Cronjé PC \*  
King TJ

**Apologies**

KM Andrew and P de Lille

**Absent**

PJ Groenewald, NN Mapisa-Nqakula and PF Smith.

**Technical Advisors**

None

**Ad-Hoc Committee on Local Government**

None

**Attendance**

S Haydon and M Mxenge

As the DP, FF and PAC were unable to attend the scheduled Core Group meeting, members of the ANC and NP held an informal discussion on the public hearing on Local Government, to be held on 14 August 1995.

Members felt that the allotted speaking time of 5 minutes to be too brief and would discourage some of those whom had been invited, from attending. As some of the invitees had previously made submissions which had been taken into account by the political parties, it was suggested that more time should be allotted to those who had not done so.

The following issues were suggested for discussion with the Administrative team which would be dealing with the logistics of the hearing:

- (i) 10h00 - 10h15 Brief introduction by Dr TJ King and welcome by the Chairperson Mr C Ramaphosa
- (ii) Block 1 The MEC's would speak for 10 minutes each  
25 Minutes would be allotted for questions of clarity
- (iii) Block 2 Transitional Local Councils - ensure representation from small Platteland areas (eg Grabouw, Caledon et al)
- (iv) Block 3 Universities - Fort Hare / Stellenbosch
- (v) Block 4 Rural emphasis - SANCO, CONTRALESA, SAMWU, National Land Committee (Rural Local Government Team)
- (vi) Consideration should be given to Pretoria, Port Elizabeth, North Rand and Pietermaritzburg and the Institute of Town Clerks.

*Note: Subsequently, Mbasa met with Ms de Lille, Mr Andrew, Dr King and Prof Du Toit whom approved the attached Draft Agenda. Discussions are continuing.*

IT APPROVES 104 IN 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020.

# CONSTITUTIONAL ASSEMBLY

## THEME COMMITTEE 3

### RELATIONSHIP BETWEEN LEVELS OF GOVERNMENT

#### NATIONAL SECTOR PUBLIC HEARING LOCAL GOVERNMENT

*Venue* : Old Assembly Chamber  
*Date* : 14 August 1995  
*Time* : 10h00 - 17h15

#### DRAFT AGENDA

- 09h30 - 10h00: Registration and Tea
- 10h00 - 10h05: Opening and Welcome  
Dr TJ King (TC3 co-chairperson)
- 10h05 - 10h15: Introductory remarks  
Mr Cyril Ramaphosa (CA chairperson)
- 10h15 - 11h15: **SESSION ONE**  
**Presentations from the Members of Executive Councils**  
Facilitator: Dr TJ King
- 11h15 - 11h30: Questions of clarity by CA members and responses from  
the MEC's
- 11h30 - 11h45: **TEA**
- 11h45 - 12h45: **SESSION TWO**  
**Presentations from Transitional Local Councils**  
Facilitator: Prof DC du Toit
- 12h45 - 13h00: Questions of clarity by CA members

13h00 - 14h00:           **LUNCH**

14h00 - 15h00           **SESSION THREE**

**Presentations from Academics and other Professional Associations**

                              Facilitator: Rob Davies (chairperson TC 6.2)

15h00 - 15h15           Clarification and responses

15h15 - 15h30           **TEA**

15h30 - 16h30           **SESSION FOUR**

**Presentations by Non - Governmental Organisations and Community Based Organisations**

                              Facilitator: Ms P de Lille (co-chairperson TC 3)

16h30 - 16h45:           Clarification and responses

16h45 - 17h00:           Summary of the session  
                              Mr Andrew Boraine (Deputy Director General,  
                              Department of Constitutional Development - Local  
                              Government)

17h00 - 17h15:           **CLOSURE**  
                              Hassen Ebrahim (Executive Director of the Constitutional  
                              Assembly)



P L A N A C T

02 August 1995

RECEIVED. 3/8/95  
1640HRS.

Constitutional Assembly  
P O Box 15  
CAPE TOWN  
8000

Attention: Mbasa Mxenge  
Sandra Haydon  
Beverly Thomas

Fax: (021) 241160

I initially thought that I would be in a position to attend the meeting on the 7th and 8th August 1995. However, there are commitments on those days that I regret, have tried to shift, but to no avail.

I therefore, would not be able to attend. Andre Cornelisen would attend from the Ad Hoc Committee on Local Government.

Regards

*BK Mosley*  
BK MOSLEY

PS. An updated report from the Ad Hoc. Committee on local government will be send to you later during the course of the day.





CONSTITUTIONAL ASSEMBLY

**MEMORANDUM**

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**TO :** Members of Core Group 3

**FROM :** Sandra

**DATE :** 19 July 1995

**SUBJECT :** MAJOR URBAN AREAS ASSOCIATION - INPUT

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Ms Botes has been advised that though the Theme Committee hopes to complete its work by 15 September 1995, that does mean that anything is finalised. An undertaking was given that the matter would be placed before the Theme Committee and the Management Committee on 3 August 1995.

Please take this memo to the Core Group meeting on Monday 31 July 1995.

Thank you.

P. O. Box 15, Cape Town, 8000  
Republic Of South Africa

Tel: (021) 245 031, 403 2252 Fax: (021) 241 160/1/2/3, 461 4487, E-mail: [conassem@iaccess.za](mailto:conassem@iaccess.za)

# **MAJOR URBAN AREAS ASSOCIATION**

## **INTERIM EXECUTIVE**

c/o Metropolitan Centre, 158 Loveday Street, Braamfontein, 2018. PO Box 1049,  
Johannesburg, Gauteng  
Tel. (011)407-8444 Fax no. (011)403-1870

**MS M SPARG  
DEPUTY EXECUTIVE DIRECTOR  
CONSTITUTIONAL ASSEMBLY  
CAPE TOWN**

**FAX: (021) 241160**

**19 JULY 1995**

**Dear Ms Sparg**

### **MAJOR URBAN AREAS ASSOCIATION: INPUT TO CONSTITUTIONAL ASSEMBLY: POSITION OF LOCAL GOVERNMENT IN THE FINAL CONSTITUTION**

The Major Urban Areas Association is a national Local Government Association comprising of the major Transitional Local and Metropolitan Councils in South Africa. At the Association's Inaugural Conference on 9/10 June 1995, deputy Minister Vaal Moosa informed the Association's members that the Constitutional Assembly will wait until after the local government elections in November 1995 before finalising the Chapter on Local Government, in order to provide the democratically elected Councilor to input into the process.

At a meeting of the Association's Interim Executive, held on 11 July 1995, it was decided that the Association will host a conference on the subject at the soonest possible date after the local government elections. (See attached report).

The Association also requests you to await the submissions of the MUA, before finalising the sections in the Constitution dealing with local government.

Kindly confirm whether it is still the intention of the Constitutional Assembly to postpone the finalisation of the sections dealing with Local Government, until after the local government elections, in order for the Association to prepare the workshop referred to in the attached report.

Please furnish this Association with any draft sections or provisional summaries on the position of Local Government in the final Constitution that is available to date, in order for

the MUA to incorporate it into their discussions.

~~Should you have any queries or need any clarity, please do not hesitate to contact me at (011) 407 6444~~

Yours sincerely



SONJA BOTES  
INTERIM SECRETARIAT

# IRI

Advancing Democracy Worldwide

20 Melle Street  
2nd Floor, Van Der Stel Place  
Braamfontein 2017  
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Fax: (011) 339-3368

July 28, 1995

Ms. Sandra Hayden  
Constitutional Theme Committee Coordinator  
Parliament, Cape Town  
Tel: (021) 245 031  
Fax: (021) 241 160

Dear Ms. Hayden:

I am currently trying to alter the schedule of Professors Alan Tarr and Ellis Katz to enable them to have four full days in Cape Town to meet with members, staff, and experts from the Constitutional Assembly and the Theme Committees.

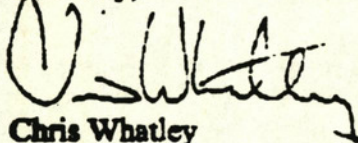
I read in an article in the Mail & Guardian that a major all-day Constitutional Committee meeting will be held next Friday to debate federal issues. The two professors have extensive experience working with federal issues in a wide-range of countries. They could be in Cape Town as soon as the following Tuesday (August 8) to meet with individual members or groups to share their insights and information for four full days.

The timing on the debate seems perfect for the two professors' visit. I built in some flexibility into the visit, and if a major debate on federal issues is underway in Cape Town it would seem to make sense to alter the schedule.

Do you think that members, staff, and experts would be interested in meeting with the two professors if we are able to put them in Cape Town for four days? I will need to make a decision on the final schedule by early next week. I can assure you that if we are able to get confirmed meetings we will allow nothing to preempt them.

Thank you for your consideration.

Sincerely,



Chris Whatley

20 West Street  
5th Floor, Suite 2903  
Durban 4001  
Tel: (031) 301-4245/6  
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1212 New York Avenue, N.W.  
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Advancing Democracy Worldwide  
July 21, 1995

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Ms. Sandra Hayden  
Constitutional Theme Committee Coordinator  
Parliament, Cape Town  
Tel: (021) ~~457-400~~ 403-2256  
Fax: (021) ~~461-2594~~ 241-16011

Dear Ms. Hayden:

We hope that our letter of apology reached you, and once again we want to express our deep regret for the inconvenience we caused both you and the theme committee members. As Chris mentioned over the telephone last month, we would be more than happy to send individual apologies to the committee members.

Our organization is dedicated to assisting the process of democratic transition and constitutional development in South Africa. In this effort, IRI is bringing two of the top U.S. experts on intergovernmental relations to South Africa from August 7-11 to hold consultation sessions with top officials from national and provincial government. Professors Alan Tarr and Ellis Katz will be meeting with political leaders to share their unique expertise on the challenges faced by provincial governments and to present comparative approaches for confronting intergovernmental issues. Both scholars are experts in the field of provincial/regional intergovernmental relations and have extensive international experience.

It would be wonderful if the scholars could have the opportunity to share their insights and observations with members of Theme Committee Three after meeting with Provincial Premiers and constitutional advisors. The work they will be performing is designed to build upon the work done by Professor Elazar back in May, and most recently, in his presentation to the International Roundtable on South African Constitutional Development this week. We would be happy to meet with any members that could work us into their busy schedules and we will gladly meet them at the time and venue of their choosing. I have enclosed a copy of their C.V.'s for your information. Chris will contact you early next week to provide additional information.

Once again we apologize for the inconvenience we caused in the past and we hope to work together in the future. Thank you for your consideration.

Sincerely,

Kathi Walther  
South Africa Project Director

Chris Whatley  
Assistant Program Officer

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VITA: G. ALAN TARR

PERSONAL DATA

Born: November 21, 1946 in Gloucester, Massachusetts  
Married, two children  
Address: 200 South Stanwick Avenue, Moorestown, N. J. 08057  
Phone: (609) 727-1032  
University Address: Department of Political Science,  
Rutgers University, 311 North 5th Street,  
Camden, N. J. 08102  
University Phone: (609) 727-6084 FAX: (609) 727-6495  
225 225

EDUCATION

Ph.D., 1976, University of Chicago  
M.A., 1970, University of Chicago  
B.A., cum laude, 1968, College of the Holy Cross

AREAS OF ACADEMIC SPECIALIZATION

American Constitutional Law	State Constitutional Law
Courts and the Judicial Process	The American Founding
American Politics	Political Theory
Federalism	

TEACHING EXPERIENCE

Rutgers University-Camden: Professor, 1989-1992; Chairperson,  
1987-1989; Associate Professor, 1983-1989; Assistant  
Professor, 1978-1983  
St. Olaf College: Assistant Professor, 1977-1978; Instructor,  
1975-1977

COURSES TAUGHT (RUTGERS UNIVERSITY)

Undergraduate:  
Human Freedoms and the Constitution  
American Constitutional Development  
The American Founding  
Law and American Civilization  
Critical Issues in American Politics  
The Judicial Process  
American Politics  
Classical Political Theory  
Modern Political Theory  
American Political Thought

Graduate:  
Law and Public Policy  
Judicial Administration

Law School:  
The American Constitution

## PUBLICATIONS

### Books:

- CONSTITUTIONAL POLITICS IN THE STATES. Westport, Connecticut: Greenwood Press, forthcoming. Editor and contributor.
- COURTS AND PUBLIC POLICY. St. Paul: West Publishing Co., forthcoming.
- AMERICAN CONSTITUTIONAL LAW: CASES AND INTERPRETATION. New York: St. Martin's Press, 1983. Second edition, 1987. Third edition, 1991. Coauthor.
- STATE SUPREME COURTS IN STATE AND NATION. New Haven: Yale University Press, 1988. Coauthor.
- STATE SUPREME COURTS: POLICYMAKERS IN THE FEDERAL SYSTEM. Westport, Connecticut: Greenwood Press, 1982. Coeditor and contributor.
- JUDICIAL IMPACT AND STATE SUPREME COURTS. Lexington, Massachusetts: Lexington Books, 1977.

### Editorships:

- Series editor, for "State Constitutions of the United States," a fifty-two volume reference series published by Greenwood Press (1987- ). Thus far five volumes have been published.
- Guest co-editor, "New Developments in State Constitutional Law," special issue of PUBLIUS: THE JOURNAL OF FEDERALISM 17 (1987).

### Articles:

- "Understanding State Constitutions," TEMPLE LAW REVIEW (forthcoming in 1993).
- "Constitutional Theories and Constitutional Rights," PUBLIUS: THE JOURNAL OF FEDERALISM 22 (1992).
- "State Constitutional Law and Constitutional Theory," RUTGERS LAW JOURNAL 22 (1991).
- "Church and State in the States," WASHINGTON LAW REVIEW 63 (1989).
- "Religion Under State Constitutions," ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCES 496 (1988).
- "State Constitutionalism and State Constitutional Law," PUBLIUS: THE JOURNAL OF FEDERALISM 17 (1987). Coauthor.
- "Legitimacy and Capacity in State Supreme Court Policymaking: The New Jersey Supreme Court and Exclusionary Zoning," RUTGERS LAW JOURNAL 15 (1984). Coauthor.
- "The New Judicial Federalism and the Ohio Supreme Court: An Anatomy of a Failure," OHIO STATE LAW JOURNAL 45 (1984). Coauthor.
- "Gender Equality and Judicial Federalism: The Role of State Appellate Courts," HASTINGS CONSTITUTIONAL LAW QUARTERLY 9 (1982). Coauthor.
- "The Effects of Court Unification on Court Performance: A Preliminary Assessment," JUDICATURE 64 (1981).

# CURRICULUM VITAE

ELLIS KATZ

(December 31, 1994)

## EDUCATION

A.B., Rutgers University (with honors), 1960  
A.M., Columbia University, 1962  
Ph.D., Columbia University, 1966  
Advanced Study, Institute in Behavioral Science and Law, University of Wisconsin, 1968

## POSITIONS HELD

1962-1966: Temple University, Instructor  
1966-1977: Temple University, Assistant Professor  
1977-1984: Temple University, Associate Professor  
1984- : Temple University, Professor

## PUBLICATIONS

### Books

Ethnic Group Politics, with Harry A. Bailey, Jr., eds. (Columbus: Charles E. Merrill Books, 1969).

State Constitutions in the Federal System (Washington: U.S. Advisory Commission on Intergovernmental Relations, 1989).

American Models of Revolutionary Leadership, with Daniel J. Elazar, eds. (Lanham: University Press of America, 1992).

### Articles and Book Chapters

"Patterns of Compliance with the Schempp Decision," Journal of Public Law, 14 (1966): 396-408.



"Apportionment and Majority Rule," Publius: the Journal of Federalism, 1 (Spring, 1971): 141-161.

"Political Opposition in the United States," in Barbara McLennan, ed., Political Opposition and Dissent (NY: Dunellen Publishers, 1973), Pp. 229-267.

"Faculty Stakes in Collective Bargaining," New Directions in Higher Education, 5 (1974): 27-46.

"Prisoners' Rights, States' Rights and the Bayh-Kastenmeier Bill," Publius: the Journal of Federalism, 8 (Winter, 1978): 179-198.

"The States Rediscovered: Education Policy Making in the 1970s," State Government, 53 (Winter, 1980): 31-35.

"Judicial Planning: Recent Developments and Future Directions," Court Management Journal, 1 (1980): 9-12.

"Pennsylvania," in Susan Fuhrman and Alan Rosenthal, eds., Education Policy Making in the States (Washington: Institute for Educational Leadership, 1981): 17-38.

"Federal Roles in Education," Interstate Compact for Education, 15 (Summer, 1981): 10-11; 30.

"Sistema Intergovernmental Norte-Americano," Revista de Administracao Municipal [Brazil], 28 (Oct-Dec, 1981): 52-71.

"The Six Roles of Judicial Planners," Court Management Journal, 2 (1981): 4-7.

"Balancing the Federal System," in Lucinda Simon, ed., The Legislature: Its Role, People and Management (Denver: National Conference of State Legislatures, 1982), Pp. 23-34.

"Aspectos Legais E Judiciais do Federalismo," Revista de Direito Publico [Brazil], 15 (Oct-Dec, 1983): 97-104.

"Aspectos Constitucionais E Politicos do Federalismo Americano," Revista de Direito Publico [Brazil], 16 (Jan-Mar, 1984): 97-101.

"American Presidential Elections and American Federalism," Revista de Direito Constitucional E Ciencia Politica [Brazil], 2 (July, 1984): 3-10.

"Federalism in High School Civics and History Textbooks," in Stephen Schechter, ed., Teaching About American Federal Democracy (Guilford: CSF Associates, 1984), Pp. 91-98.

"Aspekti Americkog Federalizma," Politikoloska Studije [Yugoslavia], 1 (1985): 29-55.