

2/4/94/2/4

**CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 5  
JUDICIARY AND LEGAL  
SYSTEMS**

**7th November, 1994**

**Room M515**

**DOCUMENTATION**



## CONSTITUTIONAL ASSEMBLY

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### THEME COMMITTEE 5 JUDICIARY AND LEGAL SYSTEMS

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

Date : 7th November, 1994

Time : 10h00 - 12h00

Venue : Room M515 (Marks Building)

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### AGENDA

1. Opening and Welcome
2. Minutes of previous meeting
3. Matters arising
4. Core Group Report
  - (a) Work Programme
  - (b) Technical Experts
  - (c) Time of Theme Committees
5. General

Ebrahim H  
Executive Director  
Constitutional Assembly

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**Enquiries:** Noel Taft, Room CS213 (Tel: 403-2278)  
Eunice van Eck, Room CS213 (Tel: 403-2294)

**CONSTITUTIONAL ASSEMBLY**  
**MINUTES OF**  
**THEME COMMITTEE 5**  
**JUDICIARY AND LEGAL SYSTEMS**  
**MONDAY 31ST OCTOBER 1994 (AT 10H00)**

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

Dalling DJ	Mogale MPE (Alternate)
De Lange J	Moosa MW
De Ville R	Mushwana ML (Alternate)
Ebrahim AG	Mzizi M
Fisher SD	Nel AC
Gibson DHM	Ngcuka B
Hofmeyr WA	Ngwane L
Jassat EE	Ntsizi TC (Alternate)
Le Roux JW (Alternate)	Saloojee RAM
Matthews J	Sonjica BP
Moeti SE	Van Heerden FJ

Noel Taft and Eunice van Eck were in attendance.

**APOLOGIES:**

Groenewald RH  
Jana DP  
Matthee PA  
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 subject to the following amendment:-

Point 5.8 of the minutes should include the criteria for the selection of the panel as set out in Point 2.3(a) (i)-(iv) in the documentation to the Constitutional Committee dated 24 October 1994, which states that the person/s shall -

- (i) be a S.A. citizen;

- (ii) be a recognized constitutional expert;
- (iii) not be a member of Parliament or any other legislature; and
- (iv) not hold office in any political party;

but with regard to point (ii) it was agreed that the Technical Experts need not be recognised Constitutional experts but experts in the field relating to a particular Theme Committee.

### 3. MATTERS ARISING

- 3.1 The Managing Secretary would request the Directorate to follow up the matter regarding the retrieval of submissions at Kempton Park pertaining to Theme Committee 5.

### 4. CORE GROUP REPORT ON WORK PROGRAMME

#### 4.1 Point (a) of Report

4.1.1 Point II (xii): It was agreed that "Labour Courts" be changed to "Industrial Courts".

4.1.2 Following extensive discussion, two schools of thought emerged regarding the approach to the work programme report;

- (i) to list the issues, and
- (ii) to categorise the issues and list details under each category.

4.1.3 It was agreed that this matter be referred to the Core Group to try and merge the two suggestions.

#### 4.2 Point (b) of the Report

4.2.1 Referred to the Core Group.

#### 4.3 Point (c) of the Report

4.3.1 It was agreed that the Core Group would work on a general approach where the work of Theme Committees overlapped as dealt with in the case of Traditional Authorities/Law.

#### 4.4 Point (d) of the Report

4.4.1 It was agreed not to identify Commissions at this stage but to deal with it as they arise.

4.5 Points (e), (f) & (g) of the Report

Agreed and adopted.

4.6 Point (h) of the Report

4.6.1 It was agreed that the list of names of structures and people to be consulted be annexed and that parties be requested to add names to this list.

4.6.2 It was agreed that Traditional Leaders be consulted as to whom should be invited to give evidence.

4.7 Point (i) of the Report

4.7.1 The need was expressed for

(a) flexibility in terms of the appointment of technical experts.

(b) continuity i.e. at least one full-time technical expert.

4.7.2 It was also agreed that parties should submit the names of experts to the Core Group by no later than Wednesday afternoon. The Core Group would identify the best persons and measure them against the list of criteria and report to the Theme Committee.

4.7.3 It was also agreed that the short list of experts be given to the Administration who would approach them individually to determine their availability.

4.8 Time of Theme Committee meetings.

4.8.1 It was agreed that the Core Group be given the mandate to fix the times.

5. **GENERAL**

The Core Group were requested to remain for a meeting.

6. **CLOSURE**

The meeting rose at 11.15

# CONSTITUTIONAL ASSEMBLY

## REPORT OF THEME COMMITTEE AND CORE GROUP 5 THURSDAY 3RD NOVEMBER 1994

### 1. INTRODUCTION

- 1.1 The Core Group met on the 31st October 1994 at 11.20am (RM M515).
- 1.2 The meeting dealt with;
  - a) Work Programme Report
  - b) Technical Experts.
- 1.3 It was agreed that a sub-committee, consisting of Ms. L. Ngwane and Mr. D. Schutte, meet to discuss all the issues of the work programme referred to the Core Group by the Theme Committee meeting (31st October 1994)
- 1.4 The Sub-Committee would report to the next meeting of the Core Group.
- 1.5 It was agreed that the next meeting of the Core Group would take place on Thursday, 3rd November at 08h00.

### 2. The Core Group met on Thursday, 3rd November 1994 at 08h00 (RM201) to finalise its tasks and the agenda for 7 November 1994 (Theme Committee 5 meeting.)

- 2.1 The Core Group could not discuss the Sub-Committee's report on the work programme due to time constraints, i.e. Members had to attend to other urgent matters.
- 2.2 It was agreed that the Core Group would meet on Friday 4th November 1994 to complete the Work Programme Report for consideration and ratification at the next Theme Committee 5 meeting.
- 2.3 The parties would submit their names of technical experts at the next meeting of the Core Group.
- 2.4 The view was expressed that each party should be given Technical Expert assistance instead of each Theme Committee, i.e. the 18 Technical Experts allocated to Theme Committees be assigned to each

party on a proportional basis. It is proposed that this view be considered at the next Theme Committee 5 meeting.

**3. GENERAL**

The Agenda for the next Theme Committee meeting is attached to the documentation for 7 November 1994.

The Work Programme Report will be circulated to all Theme Committee members on Friday 4th November 1994.