

Tape 2 - Continuation:

We have to deal with principle 2, we have no discretion no matter its obligatory in terms that this, our process that we are involved with. Last words of principle 2, forgive me for repeating it, which shall be drafted after having given due to consideration to interalia Fundamental Rights contained in chapter 3, so in fact, it is obligatory and I want more interest to make clever debating point as a matter of fact, as for as I can tell and I now think I understand why Mr. Myburg was saying although I didn't understand clearly when we looked at this provision in more, I just looked at it again that we actually have to go through this exercise and in a sense as I understand it the Rights that we've isolated any way in this work programme essentially on the headline in most of the Rights not exclusively which come from chapter 3. If we don't deal with chapter 3 we are derelict of this constitutional principle and the final draft that we propose will presume the material deficient. I'm just simply reading this and I think we had this debate last November.

Chairperson: OK, what I feel is happening here is that, although we are looking at Block 1, the constitutional principle 2, but what I'm hearing people proposing added to that would be the nature of the bill of Rights, and application therefore it means when we start looking at submissions of the political parties we need to look at constitutional principle 2, nature of the bill of Rights and applications. Can I, please make sure that I'm summarizing that properly.

Response: In fact for Mr. Sizani, I think you can see now that already as we get interventions which also relate to the interpretation of principle 2 that you do in fact need to even deal with specifically with the issue of nature and application and the case has been made by this debate already especially with Mr. Leon's intervention and Mrs. Camerer because she says we should look at the interpretation, we should look at the Rights which means already she's talking to their vision of or their understanding of principle 2, so I think when we come to principle 2 we will see that we probably not interpreting principle 2 in the same way and therefore the next step is a necessity in fact that we look at the nature of a bill of Rights and thereafter we can look at the Rights themselves and I don't think that we will be wasting time, in fact we'd waste time if we attempt to review and pretend that we have the same interpretation of principle 2.

Com. Naledi: Just wish to reiterate, Bridgette having said that really we have work programme before us which we had agreed to which incorporates much of what we've said including chapter 3.

Mr. Sizani: Chairperson all has been said. All I just want to say is that this is the second submissions that we've made, in our earlier submissions (the first) we were asked to make, and one of the requests of the PAC have made at that time, there was one point that we made that we'd need to get some legal opinion of some sort as the interpretation of the legal principles we are going to deal with because we are going get some these difference interpretation of some of these things so we did suggest in the earlier submission that we need get a broad legal opinion about that.

And I think now the best thing for you is to summarize now as to how do we now proceed from here because one of the things that I hear in this debate is that the principle 2 we can deal with when we come to party submissions, principle 2 is quite broad it really does allow both the narrow legal implications of interpreting principle 2 and secondly the broader aspect of interpreting the nature of the bill of rights because we are talking about Fundamental Rights and freedom and civil liberties which concepts are actually included there would really need to mean what does those Fundamental Rights, civil liberties and freedoms the 3 are included in nut in principle 2 why are they included and what do they actually mean each of them, you'll find that they mean quite a number of Rights or whatever or do they actually refer to one set of Rights if they do why do we need to have 3 sets of terms included there so we do need these 2 debates of the legal interpretation in the narrow sense of principle 2 and a broader aspect of the nature of the bill of Rights and I think they are encompassed principle 2.

Chairperson: OK, the following speakers, Comrade Surtie, Mrs Camerer and Mrs Vos.

(Cassette quite)

Response: Thank you Chairperson, can I just ask, if you are looking, I'd just like to get some clarification on how you see the way forward at this point because I did learn as of the 1st February, as I understand it.

Our party made a submission in relation to the constitutional principles that have a bearing on chapter 3, we all agreed it's principle 2 but we didn't take it further than that we didn't in our submission make any points about the nature and application of the bill of Rights these seemed to have become part of our agenda in this first block now as a result of initiative of the ANC which I mean I think it's very valuable debate to have but we haven't made specific submission in that regard now.

We would like the opportunity to do so, what form do you just take here because I mean it's something that these broader philosophical principles we haven't really addressed in our submission what we said yes it's principle 2 and now we must look at the Rights in Chapter 3 to see if they comply with the principles, I think you keep loosing from your agenda because I've heard some support from Mr. Leon that this would be a valuable exercise and this has been Mr. Myburg view and our view as our party we are not averse to this broader debate but we would obviously like to have an opportunity to make an input where we have some academic input and put our thinking caps on now how do you in....? to this. Do we table a document or do we have a very broad general debate first and then have enough clean sheets of table documents which we then have an opportunity to study each other's documents and reach some sort of a conclusion as to how are on these 2 issues how do you see all this happening between now and February the list because I mean these are very deep philosophical questions and obviously anyone would an opportunity to make a very sound and well founded input.

Chairperson: OK, maybe we will discuss question of how, all I want now is whether there is an agreement about the approach that is being proposed thereafter we'll look at the question of how?

Mrs Voss: We are not the debating forum here we must be clear on that, negotiating yes if we look on Page 27, if we had had all the submissions in, whether they are supposed to be in, today we should have been looking at all the submissions and debating them that is our problem in that we don't have them, so we can't enter into substantive work on that to me we are going round and round to me that's the crux of the problem, we don't have all the documents - that we should have had today.

Response: I think it's a pity really the manner in which the programme was drafted and that what is taking most of our time. I think the proposal in a practical sense is this that we regard what we have submitted as Block 1 and then the next block would then be looking at nature and applications, as you say they are very important issues that need to be dealt with at the beginning but thereafter we then when we want to look at what is it that we would agree to, in other words dealing with 1.2.2 then you look at civil and political Rights its a concept of Rights, within the context of the tabulated rights and I think we can quickly move on and say essentially we have no problems but I think that if it's approached that way because what I fear is us sitting down and not knowing because the rights have been tabulated what do you have to say about equality or freedom of expression, I mean it's really a question of what should go into the constitution not what we understand at this point.

I maybe wrong but this is really the broad understanding and this is where the contentious issues will come out if we deal immediately with our understanding of principle 2 with our perception/understanding or nature of whatever and again dealing with rights in terms of their categories.

Chairperson: OK, before I ask Mr. Leon, I want to make sure that we are looking at the work programme and the schedule of meetings and I indicate that when we were briefed at Chairpersons we were informed that we could make changes in the other blocks although we were told that the time is limited. Now what I'm hearing being proposed now is that we deal with constitutional principle 2 but the next step would be looking at the nature of bill of Rights, applications, etc. That therefore means we are changing block 2, and shifting what is in block 2 further down.

I want to make sure that we go together so that we don't get out here confused, so i'm going to ask Mr. Leon and then Nakedi.

Mr. Leon: Chairperson, I was actually going to make suggestions to Mrs Camerer to answer a question. When we drew up our proposal on constitutional principle 2 we didn't look at chapter 3 at all because the implication of constitutional principle 2 taking out reference chapter 3 because the rest of this work programme contains the Rights in chapter 3 is essentially a view to ask a question to yourself is what is your approach to the bill of Rights.

What directly should go into the bill of Rights, what should not, what should be the emphasis and so on that's how we made our submission on that particular question on principle 2 because once you start going into all the line item Rights which are then the rest of the thing then you can bring in chapter 3 as you're obliged to do wherever is appropriate. I really think this bit of paper is ready to put down your philosophy what you want out of the bill of Rights do you expect bill of Rights to protect, preserve and to extend. I'm not sure that you actually get consensus on that, I mean we can't all agree on the same wording. Once the submissions are in we can see that we need we are not going to necessarily produce one document but in terms of the way forward we don't need to produce one document there are different versions of bill of Rights. On the actual work programme and however we arrange it - ANC has got a draft bill of Rights of its own dealing with every right contained here, NP, DP, Inkatha I don't know if PAC or FF have draft bill for rights as such its just say they do - we bring up the right to equality they've got the right to equality that they formulate, they've got one, we've got one, the ANC have got one there's one in chapter 3 now, put them on the table all of them those presumably theological about it must be the party's submissions are the party's documents which are all now makes of record in because we handed it now bills of Rights or most of the parties did. there is chapter 3 that we have to look at anyway whether we want to or not we have to have due regard to chapter 3 in terms of constitutional principle 2 so that's put on the table and there might be other inputs we want public participation - I don't know that it is such a difficult/problematic exercise and can give with due regard to the kinds of rights/areas for debate which are going to take up more time and that we could just probably identify almost now just based on the kind of experiences that we all have.

Chairperson: OK, Ladies and Gentlemen, I'm going to allow Com. Naledi to be the last speaker so that we begin to round up now this debate on the work programme reschedule of meetings.

Com. Naledi: Well, I just want to restate that we do have in fact the basis of a work programme under those issues that need review/relevant and I believe that the basis should form the blocks that we deal with, I do not agree with the statement that you made earlier that we in fact move 2 blocks down in order to accommodate the discussion of the first item appearing on Page 27 the whole of that block would be our new areas that will form our programme that's how I understand our agreement at this time.

Chairperson: I think we need clarity on what exactly are we doing because all I was understanding we've dealt with constitutional principle 2 as block 1 and now we are dealing with other blocks that are related to page 27 which I've already highlighted as the next step for us, so that's what I'm understanding is happening here.

Response: Point voted chairperson, when have'nt you dealt with the issue already, isn't, you say we don't do constitution principle 2 the debate on constitution principle 2 will start on such and such a date, deadlines for party submissions is the day before public input thereafter/at the same time and leave this programme as it is, and in so far as it then becomes problematic we'll adjust it as we go along. it can be very difficult to settle this whole thing in advance.

Chairperson: OK, Comrade, perhaps let's dispose of this issue at that as long as we understand that we deal with constitutional principle 2 that's what we've raised here and the national of bill of Rights, application and so forth but there was a question from the NP - they say they had no submission around these issues, the nature and application of the bill of Rights, how do we handle that.

Response: Comrade Chairperson, we have made a proposal that we regard that as block 2 because it allows people to consult and start preparing for it. After that we'll see how things work out. Maybe what we need to say is that we need to go to our principles and look at the detail of the programme that has been put before us in terms of block 3 and others.

Chairperson: OK, in other words, there will be time for NP to make submissions Mrs. Camerer what is our deadline well, if we make the national of bill of Rights, application and so on, what has been said here is block 2 then it means that the deadline will be the block 2 deadline. OK, ladies and gentlemen, we have looked at the work plan, work programme, schedule of meetings and with those additional which will be taken care of to the management committee, shall we then move off to the next item in the agenda which is technical committees - I've received a report that the sub-committee that is dealing with technical committees met today and I was informed that it was of no agreement so there are no conclusions as yet on the technical committees - We are informed that there will be a meeting tomorrow at 7.30 am to make recommendations to the management committee that is for the meeting on Friday. That now far we can move as far as the rechnied is concerned unless there are recommend.

Then we move to the submissions themselves, here the go-group wants to know from the theme committee members how are we going to deal with the process of submissions? There are party submissions, there will be individual submissions as you remember that the advertisement are saying that you've made your mark, now its your opportunity to write the new constitution so well bereceiving those recommendation from individual originations interested parties we need to have a common understanding how we going to deal with those submissions. In the co-group we said they are all important.

Mr. Skosana: Thank you Mr. Chairman, personally I would suggest that if the theme committee has agreed on the basis/principles to discuss, then it should also divide itself into smaller groups to analyse the submissions on basis of agreements e.g. if we are going to talk about the nature of the bill of Rights then there has to be a smaller group which will analyse the submissions in terms of/relate them to that topic/heading.

Response: What I remember from our mandate is we suppose to process these submissions through a process of reporting - which was supposed to come out with what are called contentious and non contentious issues from those submissions that we receive but the problem is how do you come to decide what is contentious/non contentious without a debate and make a valid judgement on certain things despite the fact that our mandate does not go to decision making.

But I would say myself if you say this is contentious/non there/s a decision involved there, there's a valid judgement on that issue and a categorization on certain issues - issues that we agree with and those that we don't but that's what I think from our mandate is that we have to have a report made by the theme committee on the submissions to the constitutional committee to debate and negotiate on those issues themselves - what I want to understand is that are we going to treat as a separate category those of political parties to present them here?

Chairperson: Mrs. Camerer

Mrs Camerer:

Mr. Chairperson, if I may respond to Mr. Sizani I don't really see how we can form a judgement on the issues brought before us and Rights and the submissions into the contentions/non until we have dealt with principle 2 because (principle 2) it binds us in the future bill of Rights is concerned at it states very clearly that in the constitution has to include universally accepted Fundamental Rights freedoms and civil liberties but up to now we have no input from technical people/anybody else as to what are universally accepted Fundamental Rights, civil liberties, and freedoms so whether/not they are contentious if they are universally accepted that's too bad, they gonna have to go in so in terms of constitutional principle say which it binds us in fact.

Response: Are we going to just look at written submission or also handle all of our submissions? And if the written submission will be circulated among members of the committee.

Com. Mavivi: We are going to receive submissions some of them are going to be written and as a theme committee we have a right to call for - (tape went off).

Response: The admin. did explain to the management committee that they will keep us informed about submissions that have been brought in and it will be our duty to go through the information before us and select which one's political parties would like to look at closely and get complete document from admin. upon request.

Response: I just want to refer the meeting to Page 11 of the theme committee document of 25 January 1994 on paragraph 7 and 8 on report now I'm asking clarification of what is their implication on the question of submissions.

Chairperson: Remember that as members of co-group that we divided that deliberately - and first deal with submissions so that we get an understanding also in the theme committee and next step would be looking at the reports.

Response: What I want to know is after that process then what happens - when we have not our packages of submissions and we know that they've been indexed. (tape went off).

Mrs Camerer:

May I just in connection with that say how we dealt with CODESA in the constitutional principles committee, there was an invitation that went out to the public in the same way as it has, we received about 150 submissions by that time CODESA folded - what happened was that the secretariat put them together in categories analysed them gave a synopsis as in a case here and we each got a volume of all the submissions and there were very clear categories.

Freedom of Speech and a lot of interesting things that came up under Freedom of Speech for instance - the conference of editors had things to say, universities had things to say - and if we'd ever got in debate it would have been of a great assistance then the disabled came in quite a few people and we got very interesting side lines and women's, religious Rights organisation and it was easy to categorise them and I would think that before any committee of politicians gets into it, one should ask the secretariat to form a catalog in that way and can very quickly ask some people to look at for instance women and respond about it rather than politicians forming the role of the secretariat.

Chairperson: OK, there seems to be an agreement more or less but I was whispering from the admin., whether they do the analysis - they say no, they can only do the synopsis because of what has been raised already around the theme committees maybe there's a proposal of a committee coming from this group - it's going to take ages.

Response: Mr. Chairperson - I want to know from the meeting what does 7,3 say when it says - theme committee reports will be drafted by theme committee members with the admin. assistance of the secretariat because I think that at least the reports are supposed to be done by the theme committee itself and there can be a role of assistance - therefore there is a suggestion that either we can do it as this body then we set a committee amongst ourselves but the reporting process done by the theme committee itself.

Com. Naledi: Comrade Chairperson - I thought we were actually talking about submissions and how to process them that is Item 7, we are coming to item 8 which deals with reports.

Chairperson: I think you must also not begin to separate the chair because I said from the beginning let's separate submissions and reports - and it is in the same meeting when we were discussing submissions a question came as to what do we do next after we have talked about submissions - so I want you to understand that right from the beginning we deliberately separated the 2 as a co-group and this came from Com. Sizani and if we want again to look at submission then we can do that. So Comrade, if you want to conclude again go back to the process and deal with submissions you are free to do so then nobody must then talk about reports anymore.

Tape 2

Chairperson: C.A. this, what is more than I understood could, could you been them clear in terms of how we talking then, about if its been driven by CO-group persons and the public participation are we talking about if their party say our position is A our, position is B, our position and specifically talking about the participation of the CO-group persons either than saying this is what we were discussing this, and lets hear from you, or are we talking about actual CO-group persons presenting extensible hopefully the positions of the Theme Committee or Party Group positions.

Response: Yeah! I think this is going to have to be the subject of the I.F.P. Constitution within their own group in order to come up with the views so that we can finalise what we would see as the role of this Theme Committee as far as public participation is concerned and that has to emerge. Thank you.

Mrs Manzini: Chairperson, it is very clear that Mrs. Vos hasn't read the document because she has a proposal here from the Management or from we drew out this document to say that, there's going to be when we're going to communities, they will be big meetings which will be called by with the involvement of the community.

And their suggestion such meetings should be chaired by impartial people who will have been reached agreement through the community and then (2) that the various Theme Committees are actually have been people because or you cannot get to a community.

And expect that people will only raise Fundamental rights but they will be a group of us as Theme Committees who go their meaning that from Theme 1 to Theme 6, who go there and they will be and I suggesting a panel from various political parties who will be there to answer questions from the members of the community etc.

I read it in the document in the Constitutional Court document at least I read those things in the document. Ja, that's why I'm saying I read it in the Constitutional Court document so is very clear that I will need to make those submissions as political parties even in the CCN we said it also here that we also have to make our submissions on some of these issues in the CC because a document has been submitted in Theme Committee.

Chairperson: Yes, I think the whole point is that we as the Theme Committee are part of the whole Constitution making process and that we must slot in with the C.A. and the C.C.3 work and I think that's vital, the actual direction itself to a logic stand on a national basis must come from the C.A. and C.C. and management on the whole process bit in specific areas namely specific Theme Committee 4 where Human Rights there concerned there and input absolutely necessary.

Mrs. ... : Mrs Mabandla: On the question of CO- the suggestion that the ANC makes essentially submissions today. Its in line with the thrust of CC resolutions that constitution making is essentially one that is a responsibility or elected members here that we do use expertise we use it provide the necessary skills.

And I think its in that we made that suggestion as ANC in afterward we are re - emphasizing the position that already adopted but later on we would need to retie when talk details and we would make submissions in that regard but the point I wanted to make which is related and Ms. Vos is impartiality he make submissions in that regard but the point I wanted to make which is related and Ms. Vos is impartiality the need for us to be impartial again its part of the resolution when we go to public hearing we are not going. Thank you.

Chairperson: Yes, I was going to refer specifically and backward Mrs Mabandla has said if one looks at Page 31, in the last paragraph dealing with the whole objective of the P,P.P, Programmes of the Constitutional Assembly should be non-party political strict monitoring should ensure that programmes from Constitutional Assembly and the interest of the country as whole now and I think that is the point she is making, and I cannot hardly from the Chairperson endorse what she says in that regard. Are there any other views, yes Mrs. Manzini.

Mrs. Manzini: Point of information that what she was asking for is effected on 8.3

Mrs. Manzini:

A point of information that ^{what} while she was asking ~~not~~ is reflected on 8.3 on process on Page 36 on the whole structure and on Page 39, so we have it in this document.

chairperson: Those are suggested guidelines laid down for the public meeting and so on.

Mrs. Vos : Yes I read that, ^{my} question was specifically the role of the person concerned. I mean because it's nice here to say it's not going to be party political our question is how can it not be when you have individual persons from the CO^{re}-group participating, ^{are} how ^{are} we going to go round up ^{about} that is my question, when you have persons each presenting are so to get together and are we to caucus re-appointment what of Constitutional Committee resolutions that Constitution making is essentially one that is a responsibility elected members have that when were do us expertise we going to do use it for its expertise to provide the necessary skills.

And I think is in that spirit we make that suggestion as the A.N.C. in other way just re-emphasizing the position that is already adopted but of course later on we will need to re-hire when we talk detail and will make submission in that regard, but the point I wanted to mention I think is related and Miss Ross is actually touching on this particular one, it's the impartiality to the need of us to be impartial, and again is part of the resolution when were go to public hearings we are not going there, to use that to mobilize for our parties but we are going there as members of the C.A. to listen more than talk and in fact this point was authorised by the Chairman of the Constitutional Assembly as the last Management Committee Meeting where he stressed the importance of impartiality and he does seem that it can be done, because the argument really is that political parties.

We do have our own forums that we create where we can canvas for our positions and draw people to our vies but at this process should be one where we actually have some kind of standardised approach, and may I say that we are of course all in the process of refining our recommendation this issues this matter is referred back to us to make contributions but as the level of management and C.C. once more than reverse this processes always under and is it in that context as A.N.C. made our.

Chairperson: I think in that regard, the CO^{re}-group will meet and discuss this matter and ^dgive guidelines to the Theme Committee.

Mrs. Pedual: Thank you, Chairperson, I think this session I don't see anyway we concede panel inputs it seems to me actually what we talking about are forum of a public have an opportunity to be informed by the process and then to an the views and feelings about whose they would want to see in a Constitution so they won't be any input form the I.F.P. person in the CO-group or an ANC person's its not a panel.

Chairperson: To confirm that to the effect that we there and with big pair of ears to listen to what people of South Africa want to say and those seminars are going to be conducted more on that line and then on the line of telling them what we think and what are we going to do with the Bill of Human Rights.

Chairperson: Thank you, all right it is no further discussion we will pass on t the CO-group and ask them to give us a very detailed report back.

Mrs. Mpandela:

I just want to come back to the question of where we invite for hearings hear. I think that issue we need to look ^{into} ~~to it~~ in a bit, I think it will be useful for us from time to time to be able to receive oral submissions in this Assembly and to put questions as it is now the standing committees, I think it will benefit this process in other ways. I'm just adding that apart from designed forums by the public Liaison on Committee or whatever we need to begin to look at issues that would need us to listen to other people and other views apart from inputs from our technical experts so that we can invite and have time hearings

And I think that Block 2 is an area where we would benefit a lot from listening to some experts input expert I don't mean experts as in lawyers or professionals, but and in experts also in terms of people of real experiences N.G.O. is coming to talk to us perhaps we could think of that, I don't know what the administration would say to that in terms of the time factor and the schedule that has been set in useful us to hear from the administration.

Chairperson: Thank you. I think that is excellent suggestion, I think when we came to the substantive Rights to deal with the substantive Rights and we have submission from the public that we must analyse those submissions and if members feel that on a specific score so much should come to give verbal notification of the submission so as to be made at this Committee as we not hesitate before them but to give evidence before us.

Mrs. Camerer:

Thank you - Chairperson. Taking up Bridget's point, I think it is a very valuable point that she made as one that we made in the past and I fully support what she said and I seem to recall previous meetings that we have a little Sub-Committee in sort of a come Drafting Committee afterwards to look at this submissions. I wonder whether they have any thinking of this, it the isn't a Sub-Committee to looking at this submissions that Sub-Committee could make a proposal to the Committee we should to into setting up this Commissions in greater detail invite those people to I like come and give evidence and I would like to inquire what we have in mind as well, through Chairman.

Chairperson: Senator Surtee: Chairperson, this is precisely is era what have been raised by Mrs. Camera when we get our last CO-group meeting we in fact increase extended the deadlines in order to receive submission against Block 2. another words is by adding content to work by dealing substantive Rights in Block 2. We would be in a position to interphase of our discussion and debate with public submissions to the same in time with that in mind we try to extend our time limit for submissions so that we would accommodate could done it structure basis and that was precisely what we have in mind at ,the time we met.

Chairperson: Yes, the decision there was that public submissions was Block 2 be made up to and including 24th February as far as our recall and at that time we would advertising for that submissions.

All right I think that deals conclusively with particular item on the agenda if nobody one has nothing to add we are going to move to the next one which is in fact the University of the Western Cape General report we have it filed in our documentation, I assumed that members have read the report to get at interesting and I think it in this Theme Committee to note and for individual parties to take their that own positions in the regard in due course but that if somebody would someone who attended the conference then I would invite someone to make that contribution now, is there somebody who could speak to it? like to speak it come one listed but in the end of the conference I would write to someone to make that recommendation anybody who can speak to it.

Mrs Mabandla:

I actually just want to note, just to say that there are very useful proposal and perhaps we could write come out of the conference and we would invite Universities forward them the report as a submission, I think as the A.N.C. interested in having that input submitted by the University. All right, Thank You.

Chairperson: Thank you.

Mrs. Manzini :

in covered by Bridget. Chairperson: I think is reached by general consensus on that.

Chairperson: We are happy with that? I that dispose that matter think that we move isn't an item on the agenda and there's a matter which is arise very recently yesterday afternoon very late and we that is it has been suggested by the administration and the management that Theme Committee 4 should possibly be represented at the Constitutional Court hearing tomorrow when the case of the Death Penalty regarding to life is represented to the Constitutional Court should have some representation from Theme Committee 4 deals directly as on Human Rights and brief discussion with the administration it was perhaps that the members of the core- committee be valuable and terrible short notice could possibly represent Theme Committee meeting tomorrow.

This will automatically envisage and in any case does not appear for a need for Theme Committee tomorrow and that in fact means will have an extra day to look our submissions for Friday for those of us who would not be involved. Could I have your comments or parties in the position to give names to the administration envisage number was between 5 and 7 people.

Speaker: Could you tell us about logistic arrangements.

Chairperson: Logistic as far as I'm understand the administration will make all arrangements it rather urgent they would probably get us on or flight this evening they would accommodation make arrangements sand transport in Johannesburg returning tomorrow evening.

Chairperson: Is the general felt we would have representation or just a observers good should we leave to the individual parties to advise the administration of representatives immediately after the meeting and there could I ask possibly the CO-group stay back if necessary for the Drafting Committee representatives be nominated parties just to deal with in the additional items on our report as a agreed bridge. Thank very much for your attendance.

Meeting is adjourned.

Tape 3

Chairperson: So Comrade, if you want to say something on submissions, then please raise it immediately otherwise we are not going to go back to submissions.

Response: Thank you Comrade Chairperson - I think we should move on to reports and address the question of how to report it as far as I've understood the submissions we'd agreed that we would accept a synopsis and not a summary/an analysis from the secretariat that would be the basis for us to then look at how we proceed beyond that synopsis - on that part we could move on to reports and under reports.

Chairperson: You are repeated what we have already highlighted.

Com. Sotho has made a proposal here as to how to deal with reports - that we need to form a committee - so I want us now to conclude the issue around the reports or the theme committees.

Response: Mr. Chairperson, as I understand it, we must make reports from time to time as we complete our work in respective each block. I think as we reach the end of each block that we've had a debate and we had a discussion we've got to do a consensus or perhaps we've found that there's something contentious then at that stage this theme committee should draw up a report with the assistance of our secretariat and submit that report to the constitutional committee. I don't see difficulty in this.

2/4/4/5/21

Response: I think perhaps the most practical way is to get a sub-committee out of this theme committee that would actually work and get the assistance of the secretariat to draft the report but that sub-committee must bring it back to this theme committee before it is submitted further so that at the end of the day it is endorsed and it is approved by the theme committee itself.

Response: To follow up at the idea, is it not possible for our CO-group of this committee to assist the secretariat to compile the report at the end of each block.

Chairperson: There's a proposal of subcommittee that subcommittee be the CO-group comrade Sizani.

Com Sizani: I could oppose that the CO-group was not chosen for specific technical qualities in terms of reporting. It was chosen to prepare agendas for the theme committee but if we are going to prepare reports, we need certain qualities amongst member of the theme committee which I know that many people possess some of the qualities within the theme committee, so I think it should not lie specifically with the CO-group because they also have particular tasks that they were set up to do, so I think of actually dividing the work amongst the members of the theme committee so I support the idea of separate sub-committee which does not necessarily exclude members of the CO-group who want to serve on it.

Com Lulu: I would propose that we look at a separate sub-committee because I think the CO-group already has a lot of work. I would not be against one/two of the members from the CO-group being part of that but it should not be the same committee.

Response: Is it necessary to finalize the question of who is going to write the report right now, today. We are still at the beginning of the process, shouldn't we just think about this and can finalize it whenever in a day or two when we really get into the question of writing the report.

Chairperson: The other problem would be there are these deadlines so we want at least for those people to prepare themselves whilst we are debating here because we also have the deadlines that are approaching.

Com Saloojee: I think it could be a good idea if we know exactly what that group of people would be doing in terms of reporting and must be clear that one of the things that would be expected from them would be to take into account all the submissions that would be made by the political organizations, individuals because we have an absolute obligation to take those things into account. And I want to assume that when the report comes out the report will not only be reporting on the submissions and would also on the discussions that will take place within the theme committee so, what I'm trying to emphasize is that the task will be enormous, there is no way that the CO-group could be doing that, and I think that it must be from within this committee and I think it must be those people who'd have the time and the inclination to way through all that and to finally come out with that so what I'm saying that people must not that simply say that a committee must come out from amongst us, that they must be fully aware of the implications of wanting to be part of that group and I think we should do that quickly and carefully.

Chairperson: With the input of what the job would look like, if there's an agreement therefore, the next question would be are we ready to nominate those people here, now? Because we'd also be meeting tomorrow.

Response: I think each party should have to nominate a representative on that.

Chairperson: If seconded, then let's look at the size of the group, how big must that be —> All parties (agreed?).

Response: The issue of the technical assistance that we should be receiving, they should be included.

Chairperson: The only thing that we've been informed is that they are not going to be drafting but obviously they are there to give technical assistance, we will be responsible for drafting. What is being avoided is using those people in engaging them in political debates again so that they are told that they are inclined to other political parties but they will be the people who'll be assisting us no just speculating the process.

Response: Chairperson - I hate the idea of us all looking our pencils over drafts I mean, normally politicians having to draft a document, get a draft in front of them having done by technical experts who've listened to a debate and then can chew on it and amend it. I can't see how it's going to operate otherwise.

Chairperson: Comrade. I think that one - if you want to send a recommendation to the management committee to look at the issue, I think it is still within our brief to refer it back to our management committee because all that is written here in our documents that the theme committee reports will be drafted by the theme committee.

Response: I think in a sense its a matter of interpretation, because when we have a technical committee attached to us they really are here under our political guidance and therefore they would then take instructions from the theme committee itself, this is my reading of the situation. What I think it would mean practically is that nothing steps political parties reducing their views on paper and seeking assistance form the technical group. Otherwise if we do not include them in our work then what's the point of employing them.

Chairperson: Comrade, can we then accept that we have a sub-committee we include the technical experts that we are going to be having at any rate they're going to be paid and we must not have people who'd be sitting here and listening and not doing anything so we must also understand that this is public money that they'll be getting so we must make sure that they earn, do the job properly as long as we agree that we'll have a committee and then the technical experts assisting that particular committee and with the political guidance of political parties here. I don't think that will be a serious problem, is that agreed? Yes Comrade, we are moving to getting a report on the submissions received and the constitutional principle 2 brief discussion and then general invitations. Now, I don't know if you'd like a break, stretching your legs for 3-5 minutes then come back and look at submissions received, we'll meet at 5 past 4. -

On submissions received as at 12 January 1995, then there is also synopsis from the administrative committee and then we're informed by the admin. that we will receive those submissions dealing with that particular block at that particular time but also alter we'll receive those dealing with other blocks. I think that's how the submissions are going to be deal with. Let me check with the administration whether there's any additional around submissions. OK, we are informed that submissions form the political parties, initially we received from the IFP but then we believe that they're now streaming in although we still have to conclude by receiving submissions from other political parties ANC, CDP and FF and others so that the admin. is able to forward those to the theme committee members. So we are informed that then the administration will be only ready most probably with those submissions by Monday. Thus far what we've received is what is in Page 3, 4, 5 and 6 as at 12 January, more and more are still getting in so I'm sure by next week we shall have more submissions because the advert. campaign is in full swing now so we'll be getting more submissions in due course. For this block the cut off date will definitely not go beyond Monday, not knowing for the public. Then we shall move on to number 10, and tomorrow we will be meeting here at 8.30 am, so because the CO-group felt that we need to have a preliminary discussion on constitutional principle 2 - I wonder if we will engage ourselves at 4.20 p.m. with the preliminary discussion/would prefer to make a good morning for us depending on you - We can sit here until 6.30 that depends entirely on your that's not a problem for me.

Response: In your presentation you told us that there are some submissions which are coming in, and are they the ones which you are saying that form the admin. they can only be ready on Monday are they submissions form block 1 - If I can get clarification because I don't know why is it taking too long, today is Wednesday and the admin. needs all the submission should be in and yet the deadline for block 1 is somewhere next week too - I don't know if it is possible to speed up and we have the submissions especially those coming from political parties to us tomorrow then we can have a meaningful discussion tomorrow.

Chairperson: In fact, those coming from political parties those received I'm sure they could be here tomorrow, and we have been informed that there are processes in dealing with these submissions that is what is delaying this thing and also the deadlines that are not kept that is also another problem. We've been warned that in the briefing papers that if do not keep deadlines there are other implications like jeopardizing the whole process, so we must also understand that this is the beginning and hope that as we move along the process will move even faster but we can get the political party submission by tomorrow if that is what we want.

Response: The NP has a certain very definite view and that is we don't really see how we can have a meaningful discussion on principle 2 without the input of our technical experts and there has been some unaccountable delays in appointing them I understand, but as far as we are concerned we feel very definitely that we need very strong technical input on this discussion because we feel it's cardinal to the whole debate we going to have in the next 18/12 months on this issue.

We have to have a solid foundation from which to proceed we just don't see how we can, I mean we do have our own views. What sort of universal Fundamental Rights, freedoms and civil liberties, etc., and its gonna be a meaningless discussion unless we've got some solid technical academic input into this committee. Second point we have somebody on the call committee, Gert Myburg but the only thing I can that we've submitted is this really rather technical document on the procedures that I quoted form earlier we don't seem to have submitted anything substantive and I may be in preparation that I don't know about but I'd be very surprised maybe there's a misunderstanding, I have a note from Gert Myburg about how he so having attended the CO-group meeting that this meeting would proceed but he seems to be awfully unaware that we're meant to make substantive proposal on the constitutional principle 2 by Monday, I mean I have not been hinted this here so I'm taken by surprise a little bit and I think I've got to go back to our men on the CO-group and find out what's going on and why? We do see how we can proceed without the technical committee

Chairperson: To clarify 1/2 things before I allow other speakers. In relation to constitutional principle 2 that was not coming from the CO-group, it is part of our work plan and work programme so it is not coming from the CO-group. And then the other thing also is that the decision that at least we need to start something because our main worry as a CO-group was to bring theme committee members in the meeting and then they sit down without doing anything and unfortunately Gert Myburg was part of our CO-group meeting yesterday when we agreed that we need to have a preliminary discussion about constitutional principles just bringing it as a clarity.

I understand your point but the critical point that perhaps we need to debate the issue that Sheila is raising that as a NP they don't see us starting these discussions without the technical experts as inputs and so on. Can we look around on that particular issue.

Bridgette: Just to settle members, the panel is about to complete it's task and the names will be before the C.C. by next week. I think people should not worry too much about that but with the proposal that Mrs. Camerer is making will delay us because its important to hear each other out we can't move instead we need technical advisors immediately because we assume that it's going to be so difficult we are going to have such different parties talking to their submissions and then we can form opinions then we can come back and then perhaps even discuss how we are going to use the expertise of the members of the technical committee.

Chairperson: Any other view.

Response: To Mrs. Mabandla's, I think that a fruitful debate I like her last point is that how we should use the expects of the technical committee, I mean we seem to have a view that is not entirely shared by the other side they must help us to guide discussions that are so important as the whole question of principle 2.

Bridgette: Following up - I think that we have guidelines, we adopted resolutions in the C.A. and in any event our understanding is that we deliberate really and hear each other out as politicians and then actually ask for an opinion, we can agree and set out what we'd like them to do for us e.g. if we'd like to hear more, like you are looking at what are universally accepted already you've identified an area perhaps when we've heard each other out we might perhaps have to agree whether that's an issue that you can put before the technical committee to investigate and give us an opinion/give us authority on the different areas that we are raising.

Chairperson: Comrade Sizane and then Mrs. Vos.

Mr. Sizani: I want to know from Mrs. Camerer whether she says that we need legal opinion on principle 2 so I'm covered by the approach of saying that we can discuss so that we get clarity as to which areas we disagree about principle 2 and the request either a legal opinion an expert to investigation of the principle.

Mrs. Vos : Just on the matter of procedure because I'm not quite clear, when we have the submissions, is their process going to be that obvious other people would have sent in their submissions so they will not be able to talk to them, but those who represent political parties here is it going to be decided or am I just tabling this now for consideration that for instance each party, person/number of persons actually leads the theme committee through their submission so there is a chance for each party, organization to actually lead the theme committee through the submission.

Then of course we go on to actually discussing the other proposal that have come through that people are not here to present them, I mean precisely how are we going to do it?

Chairperson: In fact in the CO-group that was the intention that we hear the views of different political parties, then we move from there, if we want an opinion from an expert, we will see at point if we indeed need an opinion from an expert. This is what we have not decided upon because according to us a CO-group we would have loved that you start it immediately now I see two hands Sherta and Sizane.

Sheila Camerer:

I just want to make a point that when it comes to writing a report I don't think that the NP will be able to accept that nay report on this principle 2 is complete, and we would not be able to support and report like that unless we have the input of the technical committee on the certain points that we would like to hear them on for instance, what are universally acceptable Fundamental Rights and liberties and freedoms so I could be a report on a debate that occurred or discussion that occurred/various parties point of view but it could not certainly be a report of a conclusion by this committee as far as we are concerned. I want to note that reservation Mr. Chairperson.

Chairperson: Fortunately it does not oppose our decision that we took today that a member of each political party in the report writing and the technical expert will be part of that process so those are the people who will be dealing with the reports.

Mr. Sizani: Mr. Chairperson, it's just that since we were discussing the process that Mrs. Vos has raised, does that suggest that in terms of the process we're going to start with the preliminary discussion without any of that committee we talked about our sub committee, which is going to prepare those submissions so that committee will not do anything initially before we discuss it will sit after we have had the initial discussion to try and reconcile the submissions, because we heard initially that, that process of sub committee when does it come in after we have had our initial discussion/when the documents come they go to it first and then they are grouped and we look at them as grouped or what?

Naledi: Clearly, Chairperson we're not at such a point where we can launch into any form on a discussion of principle 2, so I think perhaps what we need to do is adjourn at this point and hopefully tomorrow with the submissions before us we can then begin launching into a preliminary look at how we intend to address the whole question of principle 2, I think we seem to be wondering a bit.

Chairperson: There's a proposal that we get, it's seconded by Mrs. Vos that we start preliminary discussions tomorrow when we have the submissions. So the parties will be speaking to their submission tomorrow now, Comrade, Ladies and Gentlemen, tomorrow we are meeting at 8.30 am.

Response: Could we request that the meeting start at 9 o'clock because it's already 4.30 and to contact people in our party may nerve some submission that's being drafted and so on. And I think it's going to be difficult to find them at this point and we need a bit of time.

Response: Chairperson actually I'd even go for half an hour later, my reason being the fact that we need time to review the scheme the submissions, I hope that would have the submission first thing tomorrow morning in order to give us time to go through the party's submissions so that we are ready for the preliminary discussion, 9.30 am.

Chairperson: There's a proposal that we meet at 9.30 am tomorrow morning. OK, we meet 9.30 then we can see if we can't make sure that the submissions are received so let's agree on 9.30, we will try and sort out the CO-group how do we deal with the people who will not know that our meeting was scheduled for 8.30, I mean like the public, to the press they know that we're meeting at 8.30 but now we're shifting it to 9.30, we will see as a CO-group of how we will deal with that particular one, Comrade, just before we close we have an invitation from UWC gender conference somewhere in the documents, this weekend at Sea Point, and we did ask the management committee to look at the question of payment if you are going on the theme committee work then they'll agree to pay the registration of R100,00 but we need to know who will be going to that workshop, but not of course on the mandate of the theme committee, take that as going to listen to people's views and as a particular party. We shall ask the parties to give the names to the admin. not later than tomorrow morning. You also have an invitation, although it has gone to all parliamentarians we are informed that according to our decision we are going to have our own workshop, so be careful don't go to the third and fourth one because yours will be in March the 4th and fifth that's when we'll be going. You must also remember that we still have the task of drawing up our own agenda as theme committee 4 that's gonna suite us.

Response: Can we ask you through the secretariat that at least we get a clearer picture of the process of how to handle the submission if they can write it out to us, and secondly to remind you about the question of meeting the committee utilizing group whether we are getting the feed back about that one.

Chairperson: At the moment, I'm sure we'll get a report about that one. That is reason why you are going to be paid for at the agenda conference it's because of that public participation it's regarded as such. The meeting is closed.