



CONSTITUTIONAL COMMITTEE MINUTES

MEETING DATES	PAGES.
9 November 1995 (32nd) a.m. (continued) (Susan)	1-12
10 November 1995 a.m. (Susan)	13-42
10 November 1995 p.m. (Susan)	43-65.

Raise

Propose.
43 (c) is substituted by (d) ^{alikes} int.
Constitution

Am1

I thought I had some agreement
we - > spelling it all out but
Guy - terms & rules and orders
thought was consensus on this.

Rebate

c is our option

Am1

Some consensus c ✓ - just refer
to the rules
If Rebate wants option then can
come back to when debate a 3rd draft.
Agreed.

~~Am1~~ ~~43~~ ~~Re~~

43 (2) Agreed.

[Tea 15 mins → 12 noon.]

(44) Agreed. no present.

(45) ~~(44)~~ (3)

Do we want in brackets to say something
[this is still to be finalized]

RKO1

Do ANC proposal 2. CC to set up
mechanism ' frame to issue

Am1

Notes have > yet put positions

forward on this -

V. Buda - we > phrase it
the seat of the nat ass

Carl - we able to for ' mechanism today
- say. CC -> it meets
-> yr will need to decide '
mechanism to deal - this matter.

46 (4) and part of (5). Sidera note.

V. de weat Ref - sidera to S60 - refer
72 (1) - 78

Malmareq 46(4) seems to be duplication of
46(3)
(can't we incorporate 1 - thru

Carl - Aren't there 2 separate issues
Agreed

1
Equi 46 (2) Depends on votes of
no confidence

* Carl. Flag that - need to come back to

If no problem ' 46 (1) then proceed.
46 (5) Agreed

47. - language not elegant
TRT will look at it.

Madame 46(5)

Parad Improve construction of 46(5)
"From the time it is disowned or its term expires the Nat Ass remains competent to function until ..."

Am1 Rewording suggested.

Idwest possible if want to start "From"
- > "Nat Ass"

Equi we not say
Sound "until the day [#] on which the next assembly is elected".
You are competent to function &
set of people - competent to function

Hofreyr problem is power of exec. before the day
before
? will be days when nobody is in power before results announced.

Parad thought was deleted
problem -> if elections > declared free - fair would > happen.
c gap
principle - remain, can refine language

V d west problem again raised re polling & postal votes - problem remains fixed & polling

De Lange competent to function does - say from when - it is say "from the moment of declaration"

V d west we can make it clearer.

Wessels what are we going to make clear. is simply want mechanism to oversee

V d west de Lange is concerned in gap letter declaration & being free - far then. the ACC against becomes competent. needs to be made clear

Yacoob wessels problem - state of emergency - 1 declared then can't limit parliament functions Q ' lesser ' 2 with

Gynt
V Breda and line ' 46(5) until the substitute polling begins & polling day

V. dweest \cap is more than 1 pouring day.

Qnt Can that be recorded.
 \cap attended to.

(47)(1) NO problem

(4) NO problem.

(48) Agreed.

(49) NO problem.

(50)(2)

de Lange 50 (2) doesn't capture what want now.

would take 58 (1) ⁺⁽²⁾ as it is now?
place - plain lang. \cap ^o
- take look at again.
Use 58(1) ⁺⁽²⁾ of full context.

Cynt Is there problem.

Rosie propose following: / tapes /

Rahed what Rosie read & discuss C de Lange's
suggestion.
If nobody else finds full context. Optimize
then ask Tech experts to put
plain lang. substance is what is
OK.

Go back to fut course

Carl For purposes of this draft de Lange > you have problem to leave it as is

de Lange Yes

Raisie
Raisie

> n have problem c fut course

Raisie don't have problem c c but want it included o ow option.

Carl in series to o time. insert > o y fut course then - I did look i you proposal, be Lange's proposal

Raisie o long as my proposal is noted

Carl. A noted - minutes.

Aquin so (2) seems to have no relation to anything else.

Suggest

so (i) - then from into course 1st sentence from fut course - leave details & take

de Lange Support Aquin

so (i) o is

→ end of (a)

- then take so (i) including = acc

50

Sub (2) - to be replaced by 58 (2)
Support again to addition &

Rabie Indicate brackets to be still to be finalized

Amr Proposal from Rabie from the NP. minutes

(51) Ignore details

(52)

Rabie Can't have dots
Propose:
Any bill introduced by Parliament shall be referred back to Parliament
See document

Jahad ✓ don't have copies.

De Wafiq > like to see doc
but - view string - to 52
should use clauses - prevent confusion
but subject to string diff & update
should & draft & goes out.

Amr we have 2 proposals
- 1 from Rabie
- 1 from Amr use previous felt out - fut. const.

Gibson

I agree call send out draft sheet
' such noB ~
Haven't seen Labie's proposal
later ' process - referring bills to the CC.

de Lange

must distinguish betw passage of
bills & assent to bills.
Don't like - Gibson deal c assent.
Gibson is deal c ~ S. 56.
Labie is introducing something
completely different.

- Deal c Gibson's p when come to assent
to bills

Griff.

Q of passage of bills do need to
provide for -
Propose take - int court says I
insert provision subject to what
is decided ' Senate.
S 59 & int course

Agreed take 59 - int course
refined.
Once Sencop is discussed will be
other changes
Make ref - brackets to money bills
- how that will be dealt, c.
Bring in 59 here

(53)

(53) Should we revert to int course (S62)

de laey what is diff betw S53 - S 153.

Upt / u proposing C we transplant S62
of int court C amendments

Murray CP 18 required care
those - not directly with S62
try get draft by morning

Upt Agreed to get draft.

moosa Agree C for part Murray
But take in 62(1) a/c ref is made to
Nat Ass - Senate -

Arasane General pt - worried about transplantation
from int court. &

Wessell Says either haven't applied our minds
-> haven't found solution yet

~~Valli~~ ^{Rahad} was agreed 2/3rd was agreed
w Valli is correct - when Ave ->
further to C Senate
quiding to be C court -> C be
-> 1/2 2/3rd majority

Anai / 7 draft

(54) Agreed to.

Rebie regard to referrals → colleagues propose something - Chap 86
can be firm proposal

NO problem c assent to bills

Chai do we need to deal c this at all.

Rebie suggest idea be deleted from this report - deal c under Chap 6.

Scutte → → → proposal to amend 87 (b)

Parvael

Cynl 87 will need to deal c
Is there problem c 54 as it stands
the issues can be addressed, we get to consult court provisions

Gibson CCourt provisions - is problem.

Cynl Half flag it until we get to (87)

(55) NO problem

(56) NO problem.

Att Is idea c all Bills c Safekeeping of

Cynl NOT going to flag this.
Practical impact will be dealt c 8

we had agreed to &

was this cleared ' President ' C. Court -
Chief Justice x

On 7th what is said here is correct
Doesn't say must be kept ~ C Court.
- Only placing responsibility here.

Chap 4
Chair

SENCO
Proposal:

There are no of copies dealing 4 same
matter.

Moosa

Different Options

This framework doesn't deal ' composition
Consistency of options - to be lost.
Suggest ' we change the approach on this
one - we accept can't have 1 framework.
put ~ 2 options - there have been
2 main trends.

as Option (1) - Option (2)

Ask briefers to draft 2 options
- check ' proponents of options
' this reflects view - present
tomorrow & instead of trying
to ~~conclude~~

have discussion now. Call advice
then

Chair

2 proposal

Rashid

' > go along ' C proposal.

c we through too options

Agreed 2 options RT will draft
clear c proposals of 2 options

Agmt. When - Recurrence at 1400.

(8) Equality

Raise

make it c o - 60 bill - rights
we are going to use that case. prices
are included.

I'm entirely happy with (2) propose
and along lines of previous 8(5)(a)
- Better question of affirm action - it
seems to an end, temporary in nature
before working that involves
redefine market

Guests

Using options would be left way of
using public
we would like option - work
asking c option and
(3) are including "but not
limited to - in brackets

Rudo

would - speak to c being placed
brackets but concerned c this phrase
used - use of place - this best

Handwritten scribbles at the top of the page.

Handwritten scribbles and symbols, including a wavy line and a circle.

Handwritten scribbles and symbols, including a small circle and a bracket.

Handwritten text, possibly a title or section header.

Opening 09h30

(7)

Rando. This is section addressing horizontal application of rights

Leungwosa flag (further to go)

(8) Equality

Leungwosa

Value

Make pt c o - go bill - rights we are going to mean that certain offences are included.

I entirely happy with 2.(2) - propose option along lines of present 8(3)(a) - whole question of affirm action - it means to an end, temporary in nature. prefer wording that involves preclusion clause

Guilty

Putting offences would be best way of imposing public
Sub (2) we would like option - margin
Adding option add
Sub (3) after including " but not limited to - in brackets.

Rando

would object to ' being placed in brackets but concerned ' this phrase is used - no of places - this Court.

Not certain how to deal with absolute

Wagner need consistency of usage

But 'No' pt - > give 'of' Radue
' 8(3)(a) - 2 - indication time of
temporairness

Pt c -> like to make mention of
what constitutes discrim charges over
time - how forms of discrim may arise
and may be need for affirm action
- future.

Radue we propose wording - & sides note

Pellapusa Is it possible to reconcile anything

Smiths The word 'likely' - Assoc 9 ps cannot
meet each other. ∴ have to have options

Temporairness is not true maybe NP reading

Suggest put 2 options - purpose of
public debate.

Willsueq we tried to deal c this & suppl. memos
hasn't been to be agreement.

Justex. Issues being raised have been raised 4
1st time x

One must look 'affirm action as
condition of equality

Going to take decades to correct equality
formulation ' present does not adequately
reflect consensus reached by parties

Healey ' of compromise follows ' wording ' C V
measures which have as their object

Smuts ' pt of view all we would need.
after designed 'and likely' - sub(2)
and ' - not limited to' - sub(3)

Rodre can we ' include 2 options at this
stage

Ramaphosa ' a C - side note
The option is to insert - brackets
words proposed by Smuts / Pando-
agreed to.

Healey ' C Smuts of add [and likely] - sub (2)
- sure if there are other substantial
diffs

Smuts ' - sub (2) [and likely]
Can't see why can't use 'including'
- some clauses - 'including but not
limited to. - lets use appropriate
words - appropriate clauses &
may need generality language.

Ramaphosa Agree will have 2 options - sub(2)
1 being what we have - [and likely
+0]

(3) Agreed to with insertion of [including but not limited to] ~ brackets

(4)

murder want this to be deleted
Refer to Suppl. Memorandum.

Paragraph 9 Human Dignity ✓

10 ✓ Leave 3 options

Parador life
Report ' term comm - term advisors
clear c ~ term of option 3 ;
Support ~ any int'l
Propose to scratch option 3

Uai Agreed to.

Bani ✓ ✓ Submission feel this clause is
follow
Objection to Option 3 being scratched.
if it is scrapped would like to
retain an aspect.

All ✓ want to be stated clearly
to Option 1

* Heaney suggest add [and the death penalty
is hereby abolished]

Bani If 3 goes out then no objection

Radue. Record — Official Direction

~~*~~ Cypr proposal scratch (3)
- put - brackets - opt 1 [Agreed to]

|| Heading is changed.

Amend 11(3)(c) better to put full ^{first} scrap after consent

~~*~~ [Agreed to]

Radue (2)(b) would like deleted - may introduce some ↗ to another source to possibly put (b) - brackets.

Suzzy (b) may be way 'protecting person' ↗ state intervention re procreation ↗ both
can have another interpretation

~~*~~ [Agreed] to put in brackets

~~*~~ [12] Agreed.

[13]

Smiths 13(i)(c) - should include interception

Panepoulos can't we attend to refinement ↗ 3rd draft.

Radne look at Suppl. Report P 6
Ma more on.

Sony 13 (2) - unnecessary

Hofmeyr ✓ Suppl memo 2 redraft P 6.

Reedem Anne 13 (1) & (2) could be replaced by
Pg 6 formulation of Supp Report.

Hofmeyr -



Agreed to fact will be done & justice
persons dealt c in applications clause

Hofmeyr (14)

Refinement by ~~fact~~ c we don't
agree with

New draft - reflecting consensus
we have new formulation

Get from
him

∴ court do - prevent legit
recognizing the validity of orig
manages . . . "

Munde 14 (2)(a) propose

Chai: settle (3) first

Pardo we preferred wording & errata
would like

Smiths Support c

Chai Can we go c errata - look 1 new
formulation & 3rd draft.

Aradle NO absolutely wrong - errata

Q1: 4(3) - turned ~~the~~ proposal from Technical Advisors.

Q2: no problem.

Pardor: Understanding of what religious law means.

Q3: Islamic law's e.g.

Pardor: Perhaps could be phrased in more appropriate way

Q4: Making was used in court -
with the 7C4

Q5: Q1 of what religious law means.

Pardor: Accept that

Maharaj is

while recognizing religious marriages here
should recognize customary marriages

Pardor: Application section

Q6: Part C under 1(5)(1) - ^{recognize} Hindu law subject to
the contribution
Religious law - not to have
Recognition of those systems.

Wooze: Q6's explanation might not cover Maharaj
his clause could say
"religious law or other recognized
traditions."

Q7: Agree to Q6.

Recognition of validity of manager
 must get insulated but not ruled
 must separate letter recognition - ~~added~~
 context

✱

Agreed

Get it typed, distributed - look at
 over tea

Main

Agreed.

14 (2)(a)

delete word 'any'

✱

AgreedPardo

14 (1)

Stop after opinion. - delete rest
 it's superfluous.

✱

Agreed to15

Sumit

problem of late speech

suggest bracket sub (2) entirely

sub 3 needs new

Radue

Support bracket sub (2)

Heberberg

new compromise option ' pg 7.
 to 15(2)

Sumit

will wish to bracket 2 (c) if using
 Heberberg's formulation

Main

Agreed take 1 + suppl. memo.Moosa

fail to I D problem of late speech.
 > happy c brackets.

Chair Bracketing does > mean doing away w/ it

Winters - & - (c) would stick to wording of (b) & draft - perhaps delete violence

Surry seems to be consensus about deleting brackets

Masandla ' (3) raising latter formulation instead of "reflects" broadly the views of society " instead of "prevents a diversity of opinion"

Winters by 7 ' Supp memo 2. ~~supp~~ alternative

Radue NP -> live w/ it

Radue ANOC can't live w/ it - can't agree to it broader scope future would change to U 3 as of by Masandla "reflects broadly the views of society"

Radue

Chair I think you are right Masandla -> we deal w/ b & 3rd Draft

Eqlin 2 advisors -> (2)(a) has - meaning "propaganda for war" - bel -> general -> phrase

Agin Agin covered.

(B) ANOC inaction - reluctantly agree to

Wolfeberg. propose 'newspapers & public broadcast media' or 'news media'

Sumers What is intended is 'public electronic media'

leave as ^{electronic} media for now

Muller Should leave 'now'

> be happy to add newspapers & 'electronic media'

Rader Wai

leave 3 as it is and add another option including

Sumers

Can't we have 1, 2, 3rd option

Wai

no. leave 3 as it is & add another option

16 ✓
17 ✓

18 Political Rights

(1)
Corruption

Every citizen
Agreed Agreed to

18 (2)

Marcus \rightarrow 9/10 \cup clause
 \rightarrow CP VIII provides
universal adult suffrage

Chai Tech 1. ?

Murray - adult be inserted here.
 \rightarrow Every adult is entitled to
vote
legislation & minimum voting age.

Marcus view \rightarrow now is \cup constitution.
'universal adult suffrage' - only
adults can vote

Chai lets put \cup brackets \cup there
clearly \cup we must discuss

Honeyr Concern 4

Chai Can we insert adult franchise
Agreed

19 \checkmark

20 ✓
20 (4) wait for 3rd draft.

Muide can ✓ (interpretation) 20 (1)
anywhere

Пунктуа would be limited - terms of
limitations clause.

21
Marais Go back to 18 (3)
Refer to ~~40~~ (42) - note should
be made c d possible problem here.

Arar Put note - brackets

Economic Activity - 3 Options

Smith we support option (3)
Suggest change to to title
Freedom of occupation or/and livelihood

Sury support option (1) - no such right
looked in German formulation
Opt (3) similar to German model
but it should have
12 (1) of German model (See Suppl.
Pg 10)

Пунктуа - ✓ pt 1 diff betw Opt 3 & German.
§12 - the first sentence is virtually
same.

2nd sentence - Germans don't have general limitations clause which we do have ∴ don't need 2nd sentence

French persons draft c ☺ 538

Radue) like Opt 2 to remain ☺

Cum
Opt 1
Opt 2
Opt 3
3 remain for now

Mixed

hasan felanais

22

Smiths Govt is able to regulate them others.

pg 13 DP proposal.

Woadle Reason - preceding clause is then the rights might have way of that clause.

If ~~the~~ working DP suggests cannot be done by general limitations clause

Smiths precisely this right as formulated.

Pardor propose right amendment to (4)(a) instead of to determine substance word 'control'

22 (4) if bracketed para of DE is included.
then

Pando | Right to Strike
AOC Right to Strike should be unenumerated.

Inedible matters are regulated by LAA
Suggest this should be flagged and
raised for 3rd draft.

Reidre happy with draft as it is in a [lock-out].

Chai flag & delete ~ new year, suits?
Agreed to

Suits to
Pardo objection to qualification of right (2)

Hofmeyr if proposal is plainly impractical.
Can't say Govt can intervene if this are impractical -

Wessels suggest bilateral let's Hofmeyr / Suits.

be large problem c. D's suggestion o c legally it is untenable.

If no that it hangs on why must we put it in - no legal rationality's

Mai live to war TRT

Yacoob limitations clause over time - there is no diff amongst lawyers

Mai lets flag²²⁽⁴⁾ & notes - come back - January

22(2)(c)

Suits suggest right to strike outside currency of collective

✓ Can't talk to Property

25 Housing & Land

Wessels PAC opposed to grouping of socio-econ rights

Housing

Housing - land criteria '25'

Pardo - terms '25(2) - propose amendment stops after "circumstances" - delete rest include relevant circumstances.

Radue (1) 25(2) believe can stop after 'cont.'
(2) request Tech Coun why 'have' access rather than right to access

Housing - 6 context flawed letter - but working hard on this.

Fouie want clarity 'adequate housing'

mai ~~Section~~

Pardo - agree ending Radue suggested keep rele

mai propose add relevant circumstances in brackets & deletion proposed by ANC.

Suits Supports

Radue 25(3) access to land - bracketed for time sig - should it be - housing d.

Suits Supports this

mai Agreed to!

Pardo: ^{we} ~~love~~ want stated < and do not accept bracketing.

Musane > > want bracket < terms of writing draft

DeLage want does 25(3) mean - is it empty left out.

Mai proposal has been made lets flag 25(3) without bracketing it - come back to it

Smiths agree but have concerns

Rudne believe housing should not deal < land. Have reservations

Mai Agreed to bracketed.

26 Health, Food

Agreed to

27 Children

27(1)(c)

Pardo - NP proposed Shelter - agreed to.

Wepner 27(1)(f) Let to relook at this process & detention of juveniles.

* flag for future consideration
* agreed to

28 Education

Maria wanted alternative wording ~~at~~ not to 2(c)
but to (3)
Happy to have insert as additional
possible sub (3) - brackets.

Pardo ✓ do ✓ support conclusion - 6 n
lection
fruits - (3) ✓ dealt with adequately -
another chapter

proposal was c 2(c) could be included as
another option and bracketed.

Pardo ✓ ✓ proposing
Option 1 28 (1) and (2)
Option 2 28 (1), (2) and (3)

Maria (3) - brackets.

Chair It is already there - working
Included to rule c it should be there
as an option x

Nzimaude But clear c it is an option to
what
what answer is Option 2
or if stands on its - then ANC position

must be clear

Mavis

include as possible dissec (3) ~ brackets

Chai

n ~ | be saying it should stand on its own
but if you go thru' (2)
but (c) more ~ less covers touches'
what is ~ (2)
If to put it is an option need to say

Mavis

this is in fact not an option
(a) deals c private institutions
(c) deals c other institutions so, be
included as possible additional
subjects

Pander

ASK NP what is missing ! in (1) - (2)

Wieland

' risk of contradicting NP
it is more an option to (c)
more logical that it is related to (c)
it is broadening category to

Mavis

once again it cannot be an option
quite different to what we have in mind

Andreas

to ~ NP ~ they happy c (1) - (2)
to state what is lacking

Chai

Mavis is happy c (1)(c)

Mavis

We have no problem c (1) - (2) but does

love full range of educ. institutions

Main

You are happy (1) - (2)
new (c) could be (3) but in brackets
It is not coming as an option.
in brackets.

De Lange

Just easiest everyone happy c
(1) - (2)
(3) 2 options (1) NP
(2) This sub - form
part of this

Wimande

we would argue that is wisaged
in 2.
you are trying state to find words
which - discriminatory. like model c.

Pardw

break up
Suggest (3) (1) to end at 'race'
- (3) (2)

Main

No doubt think it should be broken up.
Why don't say
(3) Option 1 NP
Option 2 no provision /
3 should > be included.
put all in brackets.
No problem

~~*~~

Agreed

29

Academic Freedom

Radue
29.

Happy w/ it as it stands. Or proposed formulation by Tech Comm.

Pardo

> I like to see this d. Standing on its own - concern that it grants rights to institutions

DP

Support it as it stands
The Japanese version
"Academic freedom is guaranteed"

Radue

Tech Comm happy should remain an indep right on its own.
Would like to reiterate Ac Freedom
the as set out w/ 29 -> as set out
w/ suppl. report p. 24

Mai

Shouldn't we put this w/ opinions, new formulation of

Pardo

> Stand on its own but under Freedom of Religion
reference to persons. not institutions

- opt 1 as w/ expl. m.

Suits

w/ prefer existing phrase.

Mai

keep existing 1 - opinion? set out
Pardo & Agreed to

The Language & Culture

Access to Justice

(31) Access to Justice

Lawyer access must include justice persons

Access required - address late proposed

Why not act of Parliament to provide for the right of access to (a) - (b) "

Lawyer ✓ in meaning

need in brackets = required earlier

Guides
to law bracketed?

Hadn't get wording of s. 11 is correct amendment by Law Society

Why experts & have indicated & this not a fundamental right but needs range of measures to deal
there's the right but as regulated by legislation

Guides Clix - in relevant
when necessary to meet ABC protocol
intercept - brackets

The Language & Culture

Needs to Finance

(31) Access to Info

Rautavaara persons must include justice persons.

Uai flagged. - addressed late
proposed

Hopney n An act of Parliament to provide
for ~~the right~~ of access to ... go on
" (a) - (b) "

Paraphrase ✓ n inserting

insert in brackets o requested earlier

Smith's

Uai Bracketed?

Radue feel wording of s 31 is correct
& amendment by Rautavaara ..

Hopney. experts o have indicated c it's not a
fundamental right cos needs range of
mechanisms to deal
there is the right but as regulated
by legislation.

Smith's

CP ix is relevant.
unnecessary to insert AOC proposal
in brackets ✓

Wain Insert in brackets 'this right shall be regulated by an act of Parliament / in law.'
Agreed to

~~32~~
32

Administrative justice

Pandor Title is not appropriate - it should be termed fair administrative action
Awerybo

Smith DP want Opt 1 - prefer existing title.
Insist on Opt 1

Ladue ✓ like Opt 1 but would like to hear Tech Com why negative approach in recommendation x

Cheshire we were told to reconcile 1, 2, 3
- order to do say had to identify core elements - find what was common
- all 3 x - certain it is negative x
Opt 1 pg 28 spells minimum

Pandor propose C Option 1 and Option 2 as we proposed from m - delete existing (2) - (3) - C new title.

Smith Title is perhaps have fair, admin action/ admin action justice

Hipney Admin justice is legal jargon

Fair admin action describes to people what
this clause deals c.

Suggestion "Just admin action"

* Agreed to

33 Access to Justice

? Fedine could add word where appropriate necessary
Agreed to
Hofmeyr access to courts for hearing.

Agreed to

(34) Arrested detained or Accused persons

Fadine 34 (1) (d) - (e) 2 proposals from Tech
Happy with substance of those pg 32
would like (a) retained.

Hofmeyr Also happy c supp report (1) (d) - (e)
Happy c (4) to be there.
Agreed to

Smith Accept (1) (d) of Supp Report
But (1) (e) want original words

~~Retain at~~ proposed reformation

de Lange 34 (3) (e) would like to come back.
c January

Purpose

34 (1) (c) If D insists then leave
2 options - 1 original

Reedie

(4) are brackets removed

Yes, - will come back.

Metcalf

(3) - some circumstances have to
to be informed - their rights
- be considered / with rights
accused person should be informed of
I have it in (3) (e) - (2) (c)

Noted.

34 (3) (e) We happy with amendment
as rephrased

✓

Agreed to.

35 Limitation of Rights

Sury

Happily c formulation of Pg 34 except
sub (2) be deleted.
6 (1) as basis

Suresh

Adhere to necessity
(some words missing from)

Radue

Support -

Urai

Retain - draft. as it
c ~~is~~ c ~~is~~ are going to have to
settle this one.

Honey

Perhaps then retain what is in draft & present

Agreed to

Creedle

note § 36 should be § 37
Don't need to excise § 37 from general limitations clause
(delete except the rights ~ § 37)

Mai

Agreed

Padme
Pentabusach

introduce
law - refers to both customary & common law

36

State of Emergency

Padme

36(5) reservations about inclusion of this - allows retrospectivity - directly contracts < art (4) & art > like it deleted

Mai

Proposal (5) - to be deleted.

Smith

We have agreed on amending, TTTT
Comm.

Honey

Have raised whether state of war is same as state of emergency
There is a question about whether state of war should be treated same way as state of emergency.

In case of emergency cannot

→ In case of emergency cannot
override - normal Int / Obligations
→ (trust against emergency will
always be Int / overridden)

Produce NOT convinced by arguments
Should possibly bracket and flag
this

Ami: Flag - (agreed to)

Ami: Enforcement of

Order: (1) case on case on the same ground
after again

(agreed to)

(37) Enforcement of rights

agreed to

Article: Express doubt need order (2)
order ought to be dealt with
but have 37(1)

(2) Article need to be considered

(agreed to)

In state of emergency cannot

(5) tried to make it clear C that will
> override - normal int'l obligation
- crimes against humanity will.
always be tried / punished.

Heads NOT convinced by argument.
Grand possibly bracket and flag
this

Ami Flag - (agreed to)

~~Ami~~ Amendment of 1

Heads (2) can we insert "on the same grounds"
after again

(Agreed to)

(37) Amendment of rights

Agreed to.

Heads. suggest don't need subsec (2)
rules ought to be dealt with -
just have 37(1)
(2) doesn't need to be constitutionalised

(Agreed to)

37 (1) (c) principle is her and rules can be dealt with elsewhere.

38 Application

Radne raise of - invasion of judiciary

Runkella position - prevent can be lower court appeal.

Radne favour retention of section (1) as sub (3)

Parolo is an option

Agreed to

Interpretation

Agreed to.

Meade Juristic persons?

Mai Is it possible to insert rights on pg 36.

For discussion purposes - but as draft for discussion

Smith If Bill fails should let courts decide

Radne Do federal courts should be left to

to decide - seen in dissensus amongst
Team experts.
∴ Keep Opt 1.

Chandler would like to know do we leave Opt 2
c 3 dots

Wiley no
Include Opt 2 set out as memo
stronger case / weaker case.
c note c 6 c 6 purposes.

- (39) ~~BA~~ - Agreed to
- (24) Property Rights

Kerosite Negotiations queries on - ∅ : deadlock

ANOC doc remains \rightarrow to property
courier

we will take alternative proposal
Suggest this proposal appear as
1st Option - ANOC's as alternative.

Wessels

PAC

PAC propose that there should be a ^{not}
a property clause.

Restitution clause - claims go back
to 1652.

Fouie

disappointed no progress made.

ANOC proposal means no property clause and deals c land reform.

Pahad

As far as ANOC concerned 6 is a property clause, but draft consist
o Option

This is consistent with what was agreed in NEC.

This is position of ANOC - P go into draft as an option.

Eglin

Para (4) of ANOC proposal
Which section is it referring to

S. 24.

Eglin

man. (5) - (6) P

ANOC

Yes

Panelor

3 options he talked
1 presented by PAC
1 " " ANOC
1 " " NP supported by D

Allen

Proposal have all 3 options
1 NP/OP (new), PAC + ANOC (new)

Agreed to

UNN4 1425 - 2430

(Sri Sen) CC

Mai: propose: leave competencies of local govt for now, & deal with other.

moosa has draft on new local govt.

Public Administration

be beer moosa broader concept than public service.

be beer original proposal that it be taken out of public service.

Mai

Wofrey noted. concerned but should be moved from this action - would like

Mai

noted that will come back to this

152 - agreed.

153 - no problem.

154 - there are 2 options

Wofrey opt 1 without word or perspective. employee

be beer both acceptable

* Chair

Agreed to Option 1 - Yes. - and delete

Eglin

point

Yacobs

Practical impossible to say - Q of degree & drafting difficulty
reading... phrase in this way
only way to make principle concrete in order.

Eglin

What Adv Yacobs is saying
Can we delete word only

Yacobs

Prosen is a could happen - 2 of.
Interrel how pt party to / person
belongs - the considerations
may be clear rel how pt application
- which was

leave it in
come back to
a deal a public man.

Map 12

Security Forces

Advocates

disc last time what to do a statement
of principle - now in substantive
clause

Agreed to

NOT Canada 166(c)

*

Agreed to

Chapter 13 Finance

Alant doc part of province and part from ~~province~~ finance.

We use 138(a) cos think it should, it should follow 138

Moose can go ahead with Chap 13 of Gen financial matters doc - NP deals c prov side. On this I few amendments.

Chap 13

*

167 no problem. agreed to.

Andrew is [paid] required?

Chai yes
will finalize later.

Davies 168
Chai § 142 should say § 168
my problem with this - NO

Andrew does Sabela say in
NO

Alant Can go in now - come back to it
in Jan.

Chair

Go in now without (inter alia)
Representation team will do it
will come back to it in January.
amongst the things including.

Panelo

TRT - look at way white sect is
structured - ^{can they} re-look at this?

Chair

Yes

Moosa

many of these have been drafted by
ordinary persons - should give
TRT leeway - drafting.

Dawid

138(F) - covers things which
can call 168(a) - can edit
- call National Armistice Act.

Alant

That is a new clause

Chair

I don't understand this means.
My problem

Andrew

Reserve our position on all of this

Is proposal c b - go in a proposal
c will come back to this - Jan.

Alant

138 a (1) (b)
(b) should be deleted.

✓ 169 Procurement Admin
Chair: 9 / 2 options.

David: Go for brevity / as Opt 1.

Chair: Agreed?

Plant: But - Opt 2 "and prov legis enacted within the framework of nat legis"
If that can be inserted ~ Opt 1
Go for Opt 1.

Chair: Agreed to Option 1

✓ 170 Agreed to

✓ 171 Agreed to

Plant: 1 remark - future want clarity
! meaning ° for eg universities

Chair: ° long as academic freedom -
affected by this x

Chair: leave as it & come back to in Jan.
✓ 172 Remuneration It is flag.

Suggest addition - see memo
Should say more than one place of work
follow after 172.

Plant: It substantial

Chair: Inset & opt TR7 will look at how to incorp.

(173) 100 program.

Maur 174 1(d) - correction 'form of'
 should be deleted - should say "any taxes"
 (Agreed) -

Rest is approved.

(175)

Maur Suggest leave use that - haven't
 agree
 put in note [This matter is still has
 to be dealt with / finalized]

Suggests

V. MOOSA This matter is still under discussion

Alan Proposal use formulation ~ 105 P 65
 C 1 S C are still going to
 come back

No.

Alan Gk then say
 this → be dealt C 1 - later stage

176

leave as is & understanding C —
 back to

(Agreed to)

Central Bank

Maur 177 - refer previous cl ' Pg 106
 the old form (150)

180 (i) may render those parts of
the law invalid
nobody knows what customary
int'l law is - may create legal
uncertainty

Murray

this prov. reflects that countries
to

the issue of ^{c y} considered
c y Act of Parliament - breach
- obligations ^c under int'l law

Wessels

Can we flag it
That's a diff pt.
Noted, minutes - will come back

Andrew

Can come back to Jan.

power of provinces & local authorities
Somewhere provinces those kinds of
agreements cannot be entered into
eg health educ, environ - want
to indicate o vice to come back
to where nat govt can
remove powers from local
auth - provinces

Wessels

Noted - will come back to
Concludes Chap 14

Attak
Wessels

Again guide me ~ what we should be dealing c now.

Davies

Can we deal c finance & fiscal relations
Go in app \rightarrow before 138 on pg 187 pg + $\frac{1}{2}$ should be inserted.

Wessels

Is that a joint dog

Yes

138 A

Is anybody more approval

138 a means should follow ' 138

Provinces share of revenue collected nationally
Heading should be treat being of taxes by provinces.

moosa

Accepted
but c drafters this will be new.
Section
Title provincial
138 A - 138 D (E)

Wessels

Will be incorporated in logical way & ~~in~~ accordingly

Andrew ✓ DP reserves its position

Wessell ✓ DP reservation lifted & minutes

1 ✓ National Anthem & Language
Report back.

Wessell Anthem
✓ 160
DNC view is that - take
it - it stands - Full content
- no doubt

There is not anthem
to be proclaimed
but - diff views on this
- the parties can comment

Wessell Mavis - some problems

Mavis In disc agreed approach
6, 1 & 2
1st opt - DNC position of Int Council
and opt - retention of 2 anthems
everyday use proposed considered
accepted by Cabinet 17/5/95
(Prof Kundoo)

Wessell Wessell Saying way out is to put what's
"9C" - don't constitutionalise

Wessell Is there flaw in having 2 options
lifted

✓
Marais

Wilmard's view came as surprise
Believe should put something forward -
don't leave it just open -
give public opportunity to debate.

Panad

proposal by Marais creates serious
difficulty - define ~ Opt specific
~~option~~ author. - creates problem.

If
should say Opt 1 - Congress should
say what author is
or Opt 2 - would - say
either without defining what party
author.

Wessell

leading ~ emotional matter -

Moosa

> is clear - emerges from reports
2 ~ agreement 1 author.

As a result of this disagreement
MOE let us do what did ~ Int Const.

Marais is suggesting specific Opt. but
that leaves out MOE preference.

At ~ Stage can't take disc further.
Remove all options under author

Say
s(2) ~ still to be discussed further.

Wessell

2. suggestion ~ minute
place - draft ~ agreement,
discussion ~ continue
Marais?

React words?

Moosa

Put there

Still to be discussed further

Marvin

Will ~~now~~ report back

Wessell

6 languages

Can we have report back

Rozaide

6 way -> like to approach

Should put various options

- then have intensive bilaterals

main lesson 1 state is @ of

status of lang previously advanced

- input of SRT we are trying to build now

How do come to common understanding

Wessell

Benefit of those not here -> like to hear options

Briefly ^{edit} state position

Wessell

ought to focus on matters & formulations

c would like to hear - draft

Rozaide

found common - issue of

11 lang

b c those lang disadv - part

actually the state should

actually put - resources

✓ Common ✓ also -
 Certain minority langs used by
 relig grps - Gujarati

1 issue how do give = to all
 langs → privileging langs & have been
 priv & part
 Certain langs → realities but
 mainly ' govt - prov govt can
 designate certain languages - 2
 disagreement around that

Wessell What direction should we give to these
 people

V Heenan There are areas of agreement
 Common ground.
 Disagrees - some ' pts raised by
 N Sharma & colleagues
 decide to put on
 "The provs. 13 & present
 Council will mutatis mutandis
 apply.

Wessell Suggestion to retain present form.

de Lange 2 → everything except 2 issues
 then put agreements + where is disagreement
 put 2 options
 - lang of use or lang of record
 put 2.
 - non-diminution

Naras Thought draft of ANC - 6

Included as 1 Option
 - plus as another option
 need to involve the public & debate.

Wessels What can we put - 6 draft.

Aquin we haven't been part of bilateral
 diff betw, recognising a nat lang
 - use as an official lang.

(1) those langs - recognised as national
 langs

(2) Use of these langs as official
 - be regulated by nat + prov.
 legislation

Wessels Can we not have 3 options
 - put -

V Moosa Not to have unnecessary length,
 inquiring pts of difference
 leave to drafters

(7 to a)

Manan (5) - Nation Builders

In view of fact - position

← prepared to accept Moosa's
 suggestion

Agreed to

✓ S 50 Internal Autonomy

Agreed. to

Wessell to accept.

Meyer Agreed.

✓ S 52 Bills.

Wessell draft comes from experts to it accepted
↳ this is put in draft.

Meyer ^{MP - proposal} submitted for discussion - Jan.

de Lange propose say 6 → only is finalized
when the other houses has been worked out

Wessell Agreed

✓ 53 Council Amendments - 2 draft.
Agreed to

beke - Assent to Bill.

54 - Rule wanted addition & matters
→ be referred to the Council court.

Andrew Cl. (53) Is the rule remaining

Wessell Yes

Chap 4 Council & Provinces

Moores

Grassius with her.

left yesterday remove ref to SenCop
everything 1 Pg 41 - 43
replace 2 Options 6 body ->
insert

1 Opt COP Option

2 Senate

Then asked drafter to draft 2 Options
which has been distributed - goes in
as Opt - reflect COP (inc).

and Option is Senate Option should
also be included. (NP)

Welles

We have 2 Options (will go
Agreed to.

Self determination

Moores

read out note

No problem with this.

Insert after (107)

Agreed

Map 9
Competence

New doc tabled

de Toit more adoption

Wessels
Moosa

1 amendment on Spain we favour.
mentioned 6 occasions
Pg 3 Opt 3 1 (c) should include
protection of the environment.

Agreed to

Aghin - Pg 5 (146)

1(a) alternative instead of 'has passed laws'
has legislative competence

Agreed to insert brackets.

LOCAL GOVT

Wessels Doc 'local govt. tabled.

Meyer NO time to discuss parties.
would be appropriate to submit text

the map
submit it to be put in draft 6 stage.

Moosa should be entitled local govt
& and Trad Authorities

✓ Not in position of NB and Acc.
Should replace what is in writing draft.

✓ Can it be accepted as basis of draft text

Mayer ✓ Pg 93 > writing draft - > be part of this draft.

Wells Agreed to

Outstanding matters

108

✓ Grad Authorities

108
outfit

Provinces

Draft has been presented.
new draft of 5108

Mayer

Have not had a to look into this proposal
Suggest 2 options

- 1 errata option
- 1 proposal of outfit

outfit

pg 4 ~~the~~ aac clause.
is basically same as - errata.
errata doc formulation is better than this
to address Q of prov consult. wider
perspective has to be taken.

In 3rd draft full disc in possible '6.

Weye put - errata as 1 option
 du Toit proposal as another option

V. Moosa - n saying 108 (1) - (8) ' pg 3 of
 du Toit doc must go in ?

As far errata version of 108
 is concerned - correct
 factor if say court provides framework
 then ^{say} provinces can inquire
 108 needs to be tempered - some way
 - if could just put something - here
 e brings it back to
 If remove all this draft. stands
 without it - covered by 138 -
 empowering province to draft own
 Constitution
 If leave it in then put option
 that it can poss be left out

Weye much of what Moosa is saying is
 correct but lets leave detail open -
 put - 2 options
 ' pt of errata - he should be
 covered by "modified & certified"
 "

du Toit 1 diff something > equality ! this
 108 needs to interconnect & add
 formulation diff in words "to the
 extent that"
 bbb (2) c is connecting link

Is any harm done if

Moosa ✓

2 options

- (1) 108 errata is one
- (2) no such clause.

also include 108 (1) - (10) of Bu Tait's position

Agreed

Bu Tait

present s III is affected by this & is part of this deal option

Agreed.

we have

Trade heades Pg 13

Meyer

may be include as to Chap 10 (a) has to be separated from local Govt 151 - add ref to fact that this is not law

Agreed - separate chap

- note added - further consideration to be given to & to flag to come back to term 'Trade Authorities'

69 (2) (b)

Meyer ✓

Colpitt remains as it is but flagged - future disc - January

Wesley

before adjourn Panayiotou address to Council. members of panel, retirement team admin involved - process.

Comment wonderful to be involved - full process
By - large foundation has been laid to
return - Jan to continue negs in
Jan.

Meyer

2 matters

(1) Presentation of this doc.
media saying this is 1st draft.
Cousin talk gives
this is a working draft.

(2) Comments up to 20/2 - is it not
too late

word of appreciation to main person &
yourself.

Ramaprasad 3 things

(1) Appreciation - great abundance.

~~in~~

swipe out 3 people

- Exec Director - sleepless

- 2 Dep Exec Director

1 gave birth to baby

(2) True this being released as working draft
Shels this

Release will be done (press - TV, radio,
etc. 'inlets' - various newspapers.

Will reflect decisions & views expressed
here.

(3) Invitation to Germany

When Kohl was here - in computer
 CA agreed around embassy on this
 trip
 around 2 - Jan. - would like
 endorsement from CA.
 Meyer / duosa to give details

Meyer

Following Kohl's visit invitation was
 extended via German govt.
 Approved by Pres & we accept.
 Swift - formal delegation will
 go on 8/1/90. ± 16/A people -
 parties will be approached to ensure
 repre of parties at CA.

Agreed

Andrew

Pr of clarity
 Closing date 20/2 & public to
 & what we be doing - latter part of
 Jan, - we discussing before receiving
 public so

Ramaphosa

20/2 - gives sufficient time.
 When we reconvene should look at
 issues we have flagged ourselves
 - will be feeding comments & submissions
 into discussions we are having
 we can have parallel processes
 will help us. ~ 6 regard.

Madhane

we'll need to give as to how
 submissions being processed.

Aqil

Suggest give Chair flexibility
over recommending 15/11 to 23/11
23rd maybe more appropriate

Moosa

2 issues

Proposal e having completed the 1st
writing draft - once we published
it we have taken care up to now to
draft - accessible language
Tech I have been involved - 6
propose - - thought - give mandate
to engage diff team of people
to look at language - find
people c appropriate skills

~~Moosa~~

2 point

we already thanked everybody
Thank those who have given back up
to pol parties
Thank also leadership of Chair - Dep
Chair
now ready to say to public in manner
I leave us ~~for~~ all fairly satisfied
NB to not c c ad achieved c
pity c IFS have accused us -
not accommodating everybody -
when today.

for Moosa

what if receive another 1 min
response

Roll at 16450.



Small white label at the top of the spine, containing illegible text.

Box
24