

2/4/5/2/9

**CONSTITUTIONAL  
ASSEMBLY**

**THEME COMMITTEE 5**

**JUDICIARY AND  
LEGAL SYSTEMS**

**1 FEBRUARY 1995**

**ROOM M515**

***DOCUMENTATION***



## CONSTITUTIONAL ASSEMBLY

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### THEME COMMITTEE 5 JUDICIARY AND LEGAL SYSTEMS

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

Date : 1st February 1995  
Time : 14h00  
Venue : Room M515 (Marks Building)

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#### AGENDA

1. Opening
2. Address by Hon. Judges IG Farlam and S Selikowitz
3. Discussion (Clarification and Questions)
4. Address by Prof. H. Corder
5. Discussion (Clarification and Questions)

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Theme Committee 5 meeting will follow immediately after the above inputs:

#### AGENDA

1. Opening
2. Minutes
3. Matters arising

4. Core Group Report

- a) Work Plan and Schedule of meetings (revised)
- b) Technical Assistance
- c) Workshop - Public Participation
- d) Submissions

5. General

6. Closure

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The Core Group meeting will follow immediately after TC5 meeting.

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

**CONSTITUTIONAL ASSEMBLY**  
**MINUTES OF**  
**THEME COMMITTEE 5**  
**JUDICIARY AND LEGAL SYSTEMS**  
**MONDAY 30TH JANUARY 1995 AT 16H30**

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

Dalling DJ	Mduntyana SN
De Lange J	Mgidi S
De Ville R	Moeti SE
Fisher SD	Mogale MPE (Alternate)
Gandhi E	Mushwana ML (Alternate)
Gibson DHM	Mzizi M
Groenewald RH	Nel AC
Hofmeyr WA	Ngcuka B
Jana DP	Saloojee RAM
Jassat EE	Singh HK
Le Roux JW (Alternate)	Van der Merwe JH
Mahlangu GL	Van Heerden F
Matthee PA	

Noel Taft and Eunice van Eck were in attendance.

**APOLOGIES**

Ms. L. Ngwane

**1. OPENING AND WELCOME**

- 1.1 The meeting was opened by Mr DPA Schutte who chaired the meeting.
- 1.2 Mr. Schutte welcomed Minister Dullah Omar to the meeting.

**2. MINUTES**

- 2.1 The Agenda was adopted.
- 2.2 It was noted that Ms DP Jana (attendance register not signed) and Mr. PA Matthee had attended the meeting of the 24th January 1995.
- 2.3 Ms E Gandhi informed the meeting that her apologies for the previous had been conveyed to the Chief Whip.
- 2.4 The minutes of the previous meeting were adopted.

### 3. MATTERS ARISING

- 3.1 The Chairperson advised the meeting that he had been assured by the Executive Director, Mr. Hassen, that the Codesa submissions would be made available within a week.

### 4. CORE GROUP REPORT

- 4.1 The meeting noted that -

- (a) because of bureaucratic obstacles, it was not possible to reach finality on the proposed Workshop. This matter was also raised in the Constitutional Committee meeting by the Chairperson, Mr. DA Schutte.
- (b) the Executive Director, Mr. Hassen, was invited to address the Core Group where he gave the assurance that the Theme Committee could go ahead and arrange the Workshop without any further hinderance.
- (c) Mr. Hassen had agreed to the Theme Committee inviting key role players to the Workshop, and to Theme Committee meetings, to address issues contained in the Work Programme.
- (d) the indecision of the C.A. administration had made it very difficult for the Secretariat of Theme Committee 5 to operate effectively.

- 4.2 It was agreed that -

- (a) the Core Group -
  - (i) decide on a feasible date for the Workshop.
  - (ii) contact the key role players to invite their submissions; giving them detailed information and time frames with regard to the Work Programme.
  - (iii) contact the key role players to address the Theme Committee

- 4.3 It was also agreed that the Theme Committee meeting for the next day be replaced with an extended Core Group meeting to consider the latest changes to the Work Programme.

### 5. TECHNICAL EXPERTS

5.1 The Chairperson informed the meeting that the following Technical Experts had been appointed to Theme Committee 5:-

1. Prof. P. Benjamin
2. Adv. J. Gauntlett
3. Mrs. L. Gcabashe
4. Judge P. Olivier

5.2 It was agreed to establish the availability of the Technical Experts for the week to assist the Theme Committee.

5.3 It was noted that the Technical Experts were not to put across their own points of view but to do research and provide the necessary assistance to the Theme Committees in the formulation of its proposals.

## 6. SUBMISSIONS

6.1 It was agreed that the Codesa submissions be put together in a form a working document which would be available to the Theme Committee to facilitate discussion on the Work Programme.

## 7. CLOSURE

The meeting rose at 5.05pm

**REVISION OF RECOMMENDED WORK PROGRAMME**  
**EXPLANATORY NOTE**

1. The Administration has now thoroughly revised the recommended work programme for Theme Committees 1 - 5 which was in principle accepted as a broad framework by the Constitutional Committee on the 2 December 1994. We have also prepared an additional document in respect of each Theme Committee to provide additional information which may be of assistance to the Theme Committees in performing their tasks.
2. The revision was done mindful of the concerns raised in discussions when the recommended work programme was tabled in the Management and Constitutional Committees. In revising the work programme the objectives were as follows:
  - 2.1 To achieve better vertical co-ordination in the work programme, i.e. the sequence in which Theme Committees deal with the various issues in their respective themes. The revised work programme attempts to foster a systematic approach and to assist committees to deal with the various issues in a logical way.
  - 2.2 To improve lateral coherency in issues dealt with by different Theme Committees in the same time frames (blocks). Because of the interrelatedness of most of the agenda items in the blocks it would be impossible to devise a perfect programme, but the present proposals do go a long way to achieve better horizontal co-ordination between the tasks of the various Theme Committees.
  - 2.3 To eliminate unnecessary overlaps in the work programmes of the different Theme Committees. Duplication of work in the Theme Committees could have an adverse or even disruptive effect on the process and overlaps should therefore be avoided as far as possible.
  - 2.4 To provide particulars as to what the agenda items in the blocks entail. For this purpose an additional document was prepared in respect of each Theme Committee which contains a "suggested framework" in respect of each agenda item. It is suggested that these frameworks for the different agenda items will come in handy to avoid unnecessary overlaps between the Theme Committees. These documents, however, need further development, especially in the case of Theme Committee 4.
  - 2.5 To relate the different agenda items in the blocks of the work programme to the relevant Constitutional Principles and also to the



corresponding provisions of the Interim Constitution. These particulars are contained in the documents referred to in paragraph 2.4.

3. As was previously explained, the work programme and now also the suggested frameworks for the agenda items on the work programme should not be seen as anything but a recommendation from the side of the Administration to facilitate the process, given the time constraints to write the new constitution and also the need to plan, structure and co-ordinate the media and public participation programmes in line with the process.

## FIRST REVISION OF RECOMMENDED WORK PROGRAMME

BLOCK NO	TC 1	TC 2	TC 3	TC 4	TC 5
1	1. Democracy and Character of State	1. Separation of powers	1. Nature and status of the provincial system and local government	1. Constitutional Principle II	1. Appropriate judicial system
2	2. Equality 3. One, sovereign state	2. Structures of government	2. National and provincial legislative competences	2. Nature of Bill of Rights and application 3. Equality 4. Human dignity 5. Right to life 6. Privacy	2. Supreme Court
3	4. Supremacy of the Constitution	3. Functioning of national and provincial structures of government	3. National and provincial executive competences	7. Religion, belief and opinion 8. Freedom of expression 9. Freedom of association 10. Language and culture	3. Constitutional Court 4. Constitutional jurisdiction of Supreme Court

4	5. Accountable government	4. Volkstaat and community selfdetermination	4. Structural aspects of local government	11. Administrative justice 12. Access to information 13. Access to courts 14. Freedom and security of the person 15. Detained, arrested and accused persons	5. Other courts
5	6. The Economy	5. Traditional authorities	5. Functional aspects of local government	16. Servitude and forced labour 17. Economic activity 18. Property 19. Labour relations 20. Environment	6. Customary law and customary and tribal courts
6	7. Representative government 8. Citizenship 9. Suffrage	6. Electoral system at national and provincial level	6. Electoral system at local level	21. Citizens' rights 22. Political rights 23. Freedom of movement 24. Freedom of residence 25. Freedom of demonstration and petition	7. Judicial office-bearers
7	10. Language	7. Constitutional amendments	7. Financial and fiscal relations	26. Children's rights 27. Education rights	8. Other judicial institutions

8	11. Foreign relations and international law			28. Other rights and directive principles 29. Customary and indigenous law 30. Linguistic, religious and cultural minorities	9. General matters
9	12. Name, Symbols and National Territory 13. Seats of government			31. Limitation of rights 32. Effect of Bill of Rights on existing law 33. States of emergency and suspension of rights	10. Transitional arrangements
10	14. Preamble and Postamble			34. Interpretation of Bill of Rights 35. Horizontal application of Bill of Rights 36. Class actions	

**THEME COMMITTEE 5**

**Block 1: Agenda item 1: Appropriate judicial system**

**Suggested framework for agenda item 1**

- (a) General principles
- (b) Extent to which Constitutional Principles already determine a particular judicial system
- (c) Broad notes on appropriate court system
  - higher courts
  - lower courts
  - specialized courts
- (d) Courts of final instance
  - appeal court/constitutional court
  - single or dual channel
- (e) Relationship between different courts

**Relevant Constitutional Principles:** II, IV, V, VI, VII

**Relevant sections of Interim Constitution:** Chapter 7 and sections 241 and 242

**Block 2: Agenda item 2: Supreme court**

**Suggested framework for agenda item 2**

- (a) General jurisdiction
  - appeal division
  - provincial and other divisions
- (b) Jurisdictional areas of provincial and other divisions
- (c) Composition

- (d) Relationship between divisions of supreme court and constitutional court
- (e) Access

Relevant constitutional principles: II, VII

Relevant sections of Interim Constitution: 96, 97, 101, 102, 241 and 242

**Block 3:**     **Agenda item 3: Constitutional Court**

**Suggested framework for agenda item 3**

- (a) Jurisdiction
- (b) Composition
- (c) Engagement
- (d) Access to constitutional court

Relevant Constitutional Principles: II, IV, VII

Relevant sections of Interim Constitution: 96, 97, 98, 99, 100

**Agenda item 4: Constitutional jurisdiction of Supreme Court**

**Suggested framework for agenda item 4**

Constitutional jurisdiction of -

- (a) appeal division
- (b) provincial and other divisions

Relevant sections of Interim Constitution: Section 101(3) to (6)

**Block 4:**     **Agenda item 5: Other courts**

**Suggested framework for agenda item 5**

- (a) Magistrate's courts
- (b) Specialized courts
- (c) Other possible courts

- (d) Jurisdiction and jurisdictional areas
- (e) Constitutional jurisdiction of lower courts
- (f) Composition

See CP VII and section 103

**Block 5:**     **Agenda item 6: Customary law**

**Suggested framework for agenda item 6**

- (a) Recognition of customary law
  - indigenous African law
  - laws of religious communities
- (b) Tribal/customary courts
- (c) Jurisdiction

See CP XIII(1) and section 103

**Block 6:**     **Agenda item 7: Judicial office-bearers**

**Suggested framework for agenda item 7**

- (a) Appointment, removal from office and remuneration of judges and other judicial office-bearers
- (b) Independent structures dealing with appointment, conditions of service; etc, of judges and other judicial office-bearers

See CP VII and sections 104, 105 and 109

**Block 7:**     **Agenda item 8: Other judicial institutions**

**Suggested framework for agenda item 8**

- (a) Attorneys-General and public prosecutors
- (b) Possible introduction of system of public defenders

See section 108

**Block 8:      Agenda item 9: General matters**

**Suggested framework for agenda item 9**

- (a) Court language
- (b) Interpreters
- (c) Interpretation of laws
- (d) International law
- (e) Any other related judicial matter

See sections 35, 107, 231 and 232

**Block 9:      Agenda item 10: Transitional arrangements**

See Chapter 15



(a)	<b>Constitutional Issues</b>	<p>The work of the Theme Committee will in the first instance be guided by the relevant constitutional principles enshrined in the interim constitution. The Constitutional Principles will form the parameters within which the Constitutional provisions dealing with the judicial system will have to be developed.</p> <p>The rest of the interim Constitution dealing with the judicial system and with traditional leaders and authorities and customary law will form a useful basis and guideline for the further deliberations of the Theme Committee.</p> <p>Below is indicated the relevant constitutional principles as well as the other issues to be dealt with. The list is by no means exhaustive and can be amended from time to time.</p>
	<b>The applicable Constitutional Principles:</b>	<p>II Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution, which shall be drafted after having given due consideration to <u>inter alia</u> the fundamental rights contained in Chapter 3 of this Constitution.</p> <p>IV The Constitution shall be the supreme law of the land. It shall be binding on all levels of government.</p> <p>V The legal system shall ensure equality for all before the law and an equitable legal process. Equality before law includes laws, programmes or activities that have as their object the amelioration of the conditions of the disadvantaged including those disadvantaged on the grounds of race, colour or gender.</p> <p>VI There shall be a separation of powers between the legislature, Executive and judiciary, with appropriate checks and balances to ensure accountability, responsiveness and openness.</p> <p>VII The judiciary shall be appropriately qualified, independent and impartial and shall have the power and jurisdiction to safeguard and enforce the Constitution and fundamental rights.</p> <p>XIII The institution, status and role of traditional leadership, according to indigenous law, shall be recognised and applied by the courts, subject to the fundamental rights contained in the Constitution and to legislation dealing specifically therewith.</p>

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

**A. CONSTITUTIONAL COURT**

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

**B. OTHER COURT STRUCTURES**

**1. Structures**

**a) Levels of courts**

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

**b) Seats of Court**

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

**c) Jurisdiction of Courts**

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

**2. Personnel**

**a) Structures dealing with appointments**

- i) Judicial Service Commission
  - composition [Section 105(1)]
  - functions [Section 105(2)]
- ii) Magistrates Commission [Section 109]

**b) Criteria for appointment**

- i) Supreme Court [Section 104(1)]

**c) Composition of courts**

- i) Heads of courts
  - Supreme Court [Section 97]
- ii) Number of Judges

**d) Procedure for appointment**

- i) Supreme Court [Section 104]
  - Head
  - Judges

**ii) Magistrates Court**

**iii) Other courts**

**e) Term of office**

- i) Supreme Court [Section 97.2(b)]

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

**PART IV: GENERAL**

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

**PART V: TRANSITIONAL ARRANGEMENTS:**

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

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

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

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

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

(d)	<b>Issues to be dealt with in Commissions</b>	It is too early to identify the need for commissions on certain issues
(e)	<b>Separate Reports</b>	If the proposal of a joint committee or a commission for tribal authorities and indigenous law is accepted then it is clear that a separate report will be made on this aspect. It is too early to contemplate other reports.
(f)	<b>Number of Reports required</b>	Too early to say
(g)	<b>Structures and People to be consulted</b>	<ul style="list-style-type: none"> <li>(i) The organisations, groups and persons indicated on the attached list will be notified as well as the public at large. There can be further additions to the list.</li> <li>(ii) All traditional authorities and traditional leaders, academics in the relevant field, womens' interest groups, relevant monarchs and the public at large. The traditional leaders will also be consulted on the question of any further persons who should be notified.</li> </ul>
(h)	<b>Community and media liaison assistance required.</b>	Administrative assistance to send invitations to interested persons and organisations and to draft and release press statements. As far as traditional authorities are concerned, at least the services of one or more field workers will be required because reliance on written communication may not be sufficient.
(i)	<b>Technical Assistance Required</b>	Experts in the legal field relating to the issues to be dealt with as listed above will be required.



# ***DRAFT PUBLIC PARTICIPATION PROGRAMME***

## ***COMMUNITY LIAISON***

### **MISSION STATEMENT :**

**“To facilitate an interface or dialogue between the South African people and their elected representatives by consulting the population at various levels and at various stages of the process of constitution making.”**

*(CA Resolution of 31 October 1994)*

### ***INTRODUCTION***

On 31 October 1994 the Constitutional Assembly adopted a document entitled “**Public Participation - A Strategic Overview**” which set out the broad framework within which the community liaison programme will take place.

#### ***1. GUIDING PRINCIPLES***

- Transparency
- Credibility
- Legitimacy
- Consultation
- Inclusivity

#### ***2. OBJECTIVES OF PUBLIC PARTICIPATION PROGRAMME (PPP) :***

*(Extracted from Constitutional Assembly Resolutions, 5 September 1994)*

- ensure that the draft constitution enjoys the support and allegiance of all South Africans
- new constitution should represent the aspirations of all our people
- process should serve to unite the country’s people and produce a constitution which will become the cornerstone of the future South Africa. It should be people driven and transparent
- new constitution must be the product of an integration of ideas of all role-players. In this regard, there should be maximum public participation
- there should be an effective strategy for media and community liaison
- media and public participation strategies should aim at facilitating the required “dialogue” and channels of communication between the broader public and their elected representatives
- programmes of the Constitutional Assembly should be “non-party political”. Strict monitoring should ensure that the programmes promote the Constitutional Assembly and the interests of the country as a whole

### 3. **COMMUNICATION OBJECTIVES**

- Develop, raise and popularise the CA profile
- Solicit views and submissions
- Brief public - on the constitution making process  
- procedure for submissions to CA
- Consult all sectors and role players
- Increase public interest and awareness through constitutional education
- General involvement and engagement of public at large

### 4. **PROGRAMMES**

- Special Events
  - Launch Briefings
  - Other Special Events
- Theme Committee Requests
  - Hearings
  - Seminars
- Constitutional Public Meetings (CPMs)
- Constitutional Education Programme (CEP)

### 5. **TIME FRAMES**

It is envisaged that the CLP will be run in two phases;

- First Phase : Develop draft constitution - February 1995 to end of July 1995
- Second Phase : Popularising the draft constitution - August 1995 to May 1996

This document deals with detailed planning for February 1995.

#### *LIST OF ABBREVIATIONS*

PPP : Public Participation Programme	PMT : Project Management Team
CL : Community Liaison	SACS : South African Communication Service
CLP : Community Liaison Programme	TC : Theme Committee
CPM : Constitutional Public Meetings	NGO : Non Governmental Organisation
CEP : Constitutional Education Programme	CBO : Community Based Organisation

## COMMUNITY LIAISON PROGRAMME : FEBRUARY 1995

### 6. SPECIAL EVENTS

#### 6.A. LAUNCH BRIEFINGS

##### 6.A.1. Introduction

It is proposed that the CA Chairpersons - Messrs Cyril Ramaphosa and Leon Wessels - should visit three provinces - namely the Western Cape, Northern Cape and Gauteng, in order to launch the CLP. Briefings in the other provinces are envisaged in the months to come. Briefings will also be used in the second phase of the constitution making process.

##### 6.A.2. Objective

To develop, raise and popularise the CA profile.

##### 6.A.3. Process

Three briefings are envisaged to launch the Community Liaison Programme (CLP). The briefings used to nationally launch the CLP should be of high profile to attract maximum media coverage.

##### 6.A.4. Proposed Briefings

###### *First briefing*

Date : First week in February  
Area : Western Cape (Boland)  
Target group : Farmworkers and management

###### *Second briefing*

Date : Second week in February  
Area : Northern Cape (Kuboes)  
Target group : Rural community

###### *Third briefing*

Date : Third week in February  
Area : Gauteng  
Target group : Urban community

### **Structure**

- CA participants : Mr Cyril Ramaphosa (Chairperson CA)  
Mr Leon Wessels (Deputy Chairperson CA)  
: Representatives from all political parties in the CA
- Chair : It is proposed that the Provincial Premier or a Provincial  
MEC : should chair the meeting.
- Content of meeting : Duration: 1 hour:  
Brief: 30 minutes  
Questions: 30 minutes

### **Programme:**

The programme will consist of a briefing on the Constitutional Process by the CA Chairs. It is expected, through these briefings, that:

- public participation will be encouraged;
- public awareness will be increased;
- the role of the CA in directing public participation is highlighted.

It is inevitable that questions from the audience will arise. Opportunity - though limited - should be given for questions to be posed to the Chairs.

### **Media:**

Since these briefings serve as the launch of the CLP, time should be allowed for media interviews, if requested. Close co-operation with the Media Department is of utmost importance.

#### **6.A.5. Resources**

Given the time constraints, resources such as exhibitions, pamphlets, T-shirts cannot be fully utilised for the first three proposed briefings. The Media Department is requested to arrange posters and pamphlets.

#### **6.A.6. Evaluation / monitoring**

To determine the success of the first three briefings, and to set guidelines for future briefings, evaluation is important and will be dealt with as follows:

- Tape recording of the briefing;
- Monitoring the media response;
- Report back from the Chairs;
- Members of the CL team will attend the briefings to evaluate and monitor evaluation thereof.

## 6.B OTHER SPECIAL EVENTS

Further special events proposed include:

- A simulated Constitutional Assembly process for high school pupils;
- Human rights debates for high school pupils;
- Mock Constitutional Court cases for high school pupils and university law students.

### 7. *THEME COMMITTEE REQUESTS*

#### 7.A *HEARINGS*

##### 7.A.1. **Introduction**

Theme Committees will require specialist submissions on issues from target groups. Thus target groups will be invited to hearings to give views on required issues. The need for these hearings is subject to input from the TCs.

##### 7.A.2. **Objective**

To solicit views and submissions.

##### 7.A.3. **Process**

Community Liaison (CL) proposes single hearings where there is an overlap between different Theme Committees (TCs).

#### *Schedule of Hearings*

<b>Date</b>	<b>Target Groups</b>
February	Business
March	Women
April	Traditional Leaders
May	Labour
June	Religious Groups

All Theme Committees are free to indicate to CL which hearings they would like to attend.

### *Theme Committee requests*

CL will draft a standard request form to be used by Theme Committees.

CL requires reasonable notice from TCs, taking into account:

- capacity of CL;
- availability of sectors who will need time to consult with their constituencies.

#### **7.A.4. Resources**

Background information packages eg press cuttings.

#### **7.A.5. Evaluation/Monitoring**

Managing Secretaries will evaluate the hearings and submit a report to CL.

### **7.B SEMINARS**

It is proposed to hold seminars in order to brief Theme Committees on constitutional issues following the work programme. It is proposed that universities, technikons and other institutions be approached to convene specialist seminars on issues discussed by the TCs. The seminar programme will respond to the needs of the TCs and will be guided by the Law Advisers. Because of the ad hoc nature of this section of the programme all TC requests would need to be properly co-ordinated in conjunction with the Management Committee.

## **8. CONSTITUTIONAL PUBLIC MEETINGS (CPMs)**

### **8.1. Introduction**

To involve and engage the public at large, Constitutional Public Meetings (CPMs) will be held throughout the country. The public will have direct access to their elected representatives and will be invited to give individual submissions.

### **8.2. Objective**

To involve and engage the public at large.

### **8.3. Process**

February will be used as the pilot phase of the Community Liaison Programme. It is proposed that teams from the same TC will attend particular CPMs, and that a team should comprise up to ten people, with at least one person from each party.

*Proposed CPMs**Free State*

Target date : February 18  
 Venue : Mangaung

*Eastern Cape*

Target date : February 18  
 Venue : Grahamstown

*Eastern Transvaal*

Target date : February 18  
 Venue : Drum Rock

*Western Cape*

Target date : February 18  
 Venue : Worcester

*Northern Cape*

Target date : February 25  
 Venue : Kimberley

*KwaZulu - Natal*

Target date : February 25  
 Venue : Kwa-Mashu

*North West*

Target date : February 25  
 Venue : Klerksdorp

*Gauteng*

Target date : February 25  
 Venue : Duduza

*Northern Transvaal*

Target date : February 25  
 Venue : Namakgale

**Note:** The issues to be addressed in particular CPMs will be determined on the basis of the work programme and will be guided by the Law Advisers.

#### **8.4. Theme Committee Commitments**

*Three options as to how TC members will attend future CPMs are proposed (for logistical reasons, operational from March 1995). TC members are requested to decide on the most feasible option available, taking into account the objectives of the PPP as outlined by the Resolutions of the CA..*

##### ***Option 1***

Working days	:	Saturdays & Sundays
Who	:	The 6 TCs divided into 2 groups = 12 groups Group 1: Saturday & Sunday mornings : 2 meetings per group per weekend Group 2: Saturday & Sunday afternoons : 2 meetings per group per weekend
CPMs	:	24
<b>Total CPMs</b>	:	24 x 18 (available weekends till 30 June 1995) = 432

##### ***Option 2***

Working days	:	Saturdays only : mornings & afternoons
Who	:	The 6 TCs
CPMs	:	12 : 6 TC groups x 2 meetings per day
<b>Total CPMs</b>	:	12 x 18 (weekends available till end of June 1995) = 216

##### ***Option 3***

Working days	:	Every second Saturday
Who	:	The 6 TCs, alternating
CPMs	:	6 (6 meetings per weekend)
<b>Total CPMs</b>	:	6 x 18 weekends = 108 CPMs during PPP



### 8.5. Proposed structure of the CPMs

Duration	:	3 hours		
Welcome	:	Host	:	10min
Introduction	:	Facilitator	:	10min
Input	:		:	45min
	-	Constitution Making Process		
	-	Specific TC issues		
	-	Issues discussed by other TCs		
Questions and Discussion	:		:	105min
Closure	:		:	10min

TC members will be provided with a brief, compiled by CL and Law Advisers, before each CPM, giving details of current issues in each TC. These issues will be drawn from the Work Programme.

*Please note: Due to translation and other factors, time allocated could be extended.*

#### **Appointment of Chairperson**

It is proposed that :

- criteria for the selection of the chairperson be established by CL.
- chairperson should be neutral and identified from the community.
- the national Community Liaison Team should have veto power on the appointment of the chairperson.

#### *Facilitator:*

It is proposed that the facilitator should introduce the constitution making process and facilitate the making of submissions.

### 8.6 Proposed role of the Secretariat

It is proposed that the Managing/Minute Secretaries be involved in two levels of the Constitutional Public Meeting :

- during the CPM
  - take minutes of meeting and receive written submission
  - record meetings
  - collect evaluation forms from facilitator to return to CL
- after the CPM
  - take evaluation forms to Deputy Assistant Director : Community Liaison

## **8.7 Evaluation of CPMs**

The following people are suggested to be evaluators: CA members, facilitators, provincial co-ordinators (CEP), national community liaison officers, random audiences and community leaders. Areas of evaluation will include process, content and promotional material.

## **9. CONSTITUTIONAL EDUCATION PROGRAMME (CEP)**

### **9.1. Introduction**

The Constitutional Assembly Work Programme for 1995 articulated the objectives of the Constitutional Education Programme as follows:

"The Constitutional Assembly, in association with a wide variety of NGOs, CBOs and other sectors of South African society, will conduct a wide ranging programme of constitutional education that will be accessible to South Africans at all levels. The programme will include South Africans in the constitution-making process by providing training on the key issues of constitutionality and briefing them on developments within the Constitutional Assembly. The assistance of NGOs and CBOs will allow this programme to reach disadvantaged communities, inaccessible or 'invisible' sectors and rural communities."

On 2 December 1994 the Constitutional Committee approved the programme and requested further information. Such information is detailed below.

### **9.2. Objectives**

The Constitutional Education Programme has the following objectives:

- \* helping to ensure maximum community participation in the constitution-making process, primarily through community workshops;
- \* ensuring that the Constitutional Education Programme is in step with the different phases of the constitution-making process. In the first phase this will require a Constitutional Education Programme grounded in the workplan of the Theme Committees.

### **9.3. Process**

The primary mechanism of delivery for this programme is the use of community workshop, so as to educate communities on the constitution-making process and to empower them to make submissions. Community workshops will be run, where possible, prior to Constitutional Public Meetings as well as independently of these meetings. This programme would continue into the second phase of the constitution-making process (the consideration of the draft constitution) and will lay the foundation for a wide-reaching public education programme which could be utilised in the development of a human rights culture.

**Short-term implementation:**

A short-term programme has been developed for February:

- Convening a national consultative meeting to be held in Cape Town, provisionally scheduled for 9/10 February, to provide NGOs and CBOs with a briefing and to assess existing resources;
- Running two pilot workshops in conjunction with NGOs, on Sunday 19 February and Sunday 26 February, at venues still to be finalised.

**9.4. Training and Resource Development****Training:**

This will encompass the training and briefing of co-ordinators and workshop facilitators from the CA, SACS and NGOs.

**Resources:**

A wide range of resources are envisaged, in order to ensure that the constitution-making process is accessible to as many sectors and constituencies as possible. The use of simple language, translation, drama and visual materials will be essential components of these resources. A workshop kit will be developed in conjunction with the NGO sector, including resources such as:

- \* an educational booklet on how to participate in the constitutional process;
- \* a looseleaf constitutional education manual (allowing for updates);
- \* outlines for community workshops;
- \* educational/information posters, including CA promotional material for use in local community venues such as advice offices and municipal offices.

**9.5. Evaluation and Reporting Mechanisms**

Mechanisms will be developed to assess the overall implementation and impact of the programme, including feedback from workshops and the effectiveness of resources.

Regular reports will be made to the Management Committee and close liaison maintained with the Theme Committees.

**10. CONCLUSION**

It is proposed that detailed project planning be submitted to the Directorate: CA Administration and the Management Committee on a monthly basis. Planning should reach the Management Committee not later than the second meeting of the preceding month.