

CONSTITUTIONAL ASSEMBLY

**Theme Committee 1 Meeting
8 February 1995**

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Theme Committee 1 Meeting 8 February 1995 (1):

Chairperson May I call you to order so that we start with the meeting. Even the ANC is called to order. Thank you. I don't know ... I see they are still talking on your side. Ladies and gentleman, on a serious note, let us start with the work. You are welcomed to this meeting and we hope we will have fruitful discussions. I understand that there are problems where some documents might not have been received in time, but we hope that references in politics that the people concerned will be able to cope with the stream of discussion. With those few words, you are welcome and the meeting is declared open. We then go to item number 2. Item number 2, Public Participation Programme. I hope we have all read the documentation and there is a document directed to chairpersons, regarding the work programme. I would like to read that document quickly so that we get it, ...

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Unknown We contend the agenda.

Chairperson Oh,

Unknown Before we get to that. I see there are certain standing items that are missing ...

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Chairperson Alright ...

Unknown

As no matters arising and even in the agenda those are standing issues, and I don't know whether this has been deliberate, but it is a very dangerous exercise to leave those things. I don't know what is the purpose for leaving those things.

Chairperson

I don't think there is a specific purpose, perhaps it should have been an omission perhaps of the drafters of the agenda. I am briefed by the secretariat that this is in terms of the ruling of this very committee, that the meeting should be read, the second meeting, then we start reading that, so the, today's meeting and then the next one we will have minutes later on, so it is not a sabotage of some kind, it is merely obeying the instruction of the Theme Committee. Are you satisfied? Okay, can we proceed with the agenda, please. Thank you very much. As I indicated to facilitate discussion on the question of Public Participation Programme, we have a letter here addressed to all chairpersons of Theme Committees, from the Executive Director in order to help you or to refresh your memories on certain matters, I will read this document very quickly. "Re: Public participation ... To all chairpersons of Theme Committees, Re: Public Participation Programme. We

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attach on the cover hereof a copy of the Participation Programme which is presently under discussion by the Constitutional Committee. We are awaiting final resolution of this programme, however we do not believe that there would be any significant adjustment to this. So as to avoid entering into massive arrangements and preparation for these meetings at the last moment, we believe it is necessary to enquiry from each of the Theme Committees with regard to the following: (1) your consideration of the Public Participation Programme. (2) as you will note from the programme we have avoided direct reference to public participation activities peculiar to each of the Theme Committees, and of the various agenda items which you may be dealing with. In this regard, it is necessary that your Theme Committee ... that your Theme Committee in finalising its work programme, also consider what public participation programmes you believe may be necessary and which may be peculiar as specific to your Theme Committee. Your advice in this regard, at the earliest possible opportunity, would assist in assuring that the proper arrangements be made and that these events are successfully organised. (3) We would appreciate it if you

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would kindly consider the Constitutional public meetings which we propose for the various dates, in the different provinces. In this regard you will also note that we have provided three different options in respect of which members could participate in these public events. It is necessary that you, you let us your advice with regard to these matters at the earliest possible opportunity so that we could make the necessary arrangements. We would also appreciate it if your Theme Committee considered the composition of your delegation in respect of each of the Theme Committees. To this extent we believe that members may justly complain should we request their participation in these events on short notice. We therefore believe that it may be prudent to address this matter at the earliest possible opportunity. Should you have any queries, with regard to the above matters, or the programme itself, please do not hesitate to call on us, as we will gladly oblige. In the meantime we look forward to receiving your recommendations as a matter of urgency." Now attached to that is the draft public participation programme, which everybody I think has read, it is a little bit lengthy for me to read through that. I think then we realise

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that there are options in the Liaison Commission, I mean Liaison Community Programme. These options appear on page 11, I think. There is option 1, option 2, as to how delegation from the Theme Committees could be accommodated in the major programme, being included in the composition of the, the delegate the participants of that particular meeting. Now it is important for us then perhaps to indicate which option do we look at, and what it is that we feel is peculiar to this particular Theme Committee, to be considered by the Constitutional Committee or Management Committee. I hope with those words and those remarks, participants will be able then to participate effectively on this. The matter is open for discussion. I will see by the raise of hands. It seems all people are having difficulties. Or are they all agreed? Okay, let me guide it in this manner. Which option do you then prefer on page 11? Which option do you believe is the best one, perhaps to summarise them easily. The first option says, there are 16 committees divided into two groups, that is you have 12 groups, group 1 Saturdays and Sunday mornings. Two meetings per group, per weekend. Then group 2, Saturday and Sunday afternoons, two meetings, per group per

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weekend. That is option 1. In other words we have Theme Committees participating together with the other people on Sunday, on Saturday and Sunday. Then you have option 2, which talks of the weekdays. They meet Saturdays only, mornings and afternoons, and there are 16 committees involved, and then 12, 16 committee groups you have then two meetings per day. Option 3, still weekdays, every second Saturday, there you have 16 committees participating, alternating. Then you have 6 meetings per weekend. So there you have then the three options which you can have a look at it where, in other words which one do you think will fit this Theme Committee included in that, and over and above that, we can have a programme, or suggested programme from this, and regarding the public hearings or public fora, or whatever. So I hope with that then perhaps the meeting is better guided to participate. Mr Marais?

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Mr Marais

Chairperson, I would like to point out firstly that the three options do not relate to the work of individual Theme Committees, but it relates to the Constitutional public meetings, under item 8 on page 9. And then secondly, I just want to remind the honourable members that quite a

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few of our members have indicated that they are for various reasons not prepared to do any work on a Sunday. So as far as they are concerned, I believe that the first option will then be out.

Chairperson Any other input? Dr Mulder?

Dr Mulder I have said it before and I don't want to repeat unnecessarily, but the Sundays is a problem and I have mentioned it at the Core Group and I mentioned it here. So that seems the same will go for option 1.

Chairperson Mr Momberg?

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Mr Momberg Chairperson, can I just say that although we respect the position around the Sunday, it is also a fact of life that an overwhelming majority of our people are only available for these meetings on Sundays.

Chairperson Thank you, any other input around this matter? Could we get a proposal? Which option seems to be the best for this Theme Committee, regarding the inclusion in the major programme? That does not exclude, I repeat again as Mr Marais has also put it out, the programme of the Theme Committee itself, here, being put forward, but this is the inclusion of the Theme Committee members into the major programme which is being run at higher profile. Ms

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Seaton?

Ms Seaton Mr Chairman, the IFP would also like to place on record that we too are not prepared to work on Sundays.

Mr Marais (NOT SPEAKING INTO THE MICROPHONE).

Chairperson Thank you. Could we get a proposal? There are three options, it would seem a number of parties are eliminating option 1. Now what about option 2 and 3? Reverend Meshoe?

Rev Meshoe My first option would be option 3, thank you.

Chairperson There is a proposal for option 3, what do other people say? 10
You are allowed.

Unknown Mr Chairperson, we also would love to support option 3.

Chairperson Let us hear any other people or parties. Any other view?
Mr Moorcroft?

Mr Moorcroft Option 3.

Chairperson Any other view from other people? Should I, should I accept that the people are all following option 3? Or should I leave it in abeyance and say people are still thinking? Which is which? Which is which? Do you want us to conclude this matter today or to come back to it? Let me 20
hear from you, what, what do you say? Because I think immediately after this the chairpersons will be required to

meet and finalise this matter, so that a report goes to the CC, regarding this. So option 3 seems to be the option, am I right? In the absence of anything then it seems that this Theme Committee accepts option 3, as the one which should be put forward to the Department of Administration who will then communicate with the Management. Is there any programme, or proposal for any programme then for this Theme Committee, this one was a high profile one, now for this Theme Committee in particular, do we have any proposal for public participation events? Mr Marais?

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Mr Marais

We will all ... as parties we were supposed to have sent or submitted proposals for names of organisations that we had invited for public hearings to the secretariat. I know that the ANC have made their submission, the National Party also. May I enquire what the position is in regard to the other parties, and can we now move forward from that point, because once have the names then we can ask the secretariat to make arrangements for meeting that particular organisation or individuals in public hearings.

Chairperson

Perhaps the secretariat can help us who, whether all parties have submitted the names? I understand from the secretariat only the ANC and the National Party has

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submitted the names of the organisations which might possibly be invited. Could we hear from the other parties what is the position? Without putting them in a corner, or to force them to answer, just to hear what the position is.

Mr Moorcroft?

Mr Moorcroft Chairperson, I understand the Democratic Party has already submitted to the Managing Council its names. But I can get a duplicate copy and submit it here, if that is required.

Chairperson Thank you, the secretariat I think will appreciate that. Any other party who would like to clarify? Dr Mulder?

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Dr Mulder I would have just have to check the same actually. As far as I know there was one sort of comprehensive ... I think that was handed in at the Constitutional Committee or somewhere I am not sure. That was the report at our party meeting, but I will just have to check on that, because the whole idea was to do it, all the committees together.

Chairperson Thank you. Any other party who would like to say something on this? Ms Seaton?

Ms Seaton Mr Chairman, we are still considering and we will let you have a list of names during the course of the week.

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Chairperson Thank you. Any other party? Mr Marais?

Mr Marais

Now that we have a substantial list of names. Wouldn't it be possible for the secretariat now to start organising and planning and organising the meetings? I think within the next say, let us start by next week or so. Because we can at least start with the names that they have available at the moment, and in the meantime we can wait for the names from the other parties. But I think we should now start.

Chairperson

I understand from the administration that they have already taken strides in that direction, Mr Marais. After receiving the names concerned an invitation has been issued already for public hearings. The date ... a number of dates has been given to the various organisations and they were asked to suggest which one will suit them as it would appear, and the dates suggested here is 15 February 1995, 16 February 1995, 21 February 1995, 22 February 1995 and 23 February 1995. Seemingly they are awaiting then for the responses at this stage. Any comment? Can I hear what is agreed to? The dates are, there are four options, four dates suggested, and if we are agreed to them all, who and which date is the public hearing to be heard and where? Because a number of dates have been given and the response from the parties concerned has not yet been

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received. Now if we say it is agreed, what are we agreeing to? Could you just read those dates?

Secretariat The 15th, the 16th of February, the 21st, the 22nd, and 23rd.

Mr Marais We have a meeting scheduled for, for this committee for the 15th so I think we will then all be available. Some of the other dates might be problematic because we have other commitments.

Chairperson Any other input? It seems parties are a little bit reluctant to come out. Any other input on this? Mr Moorcroft? 10

Mr Moorcroft Chairperson, yes, I think it would be extremely difficult for us all to find dates that would suit all of us. May I suggest that the secretariat simply continues to lay down days and invitations, and we will just have to fit in, as best we can.

Chairperson Mr Chikane?

Mr Chikane We have put a proposal here before the table with dates. I don't know if maybe anybody else could tell us if there are problems with these dates as submitted by the ANC.

Chairperson You have put them today?

Mr Chikane No, we gave this last week. 20

Chairperson Do people have copies of that document? Perhaps ...

Mr Chikane All ANC submissions to the Theme Committee ... The

document is called 'ANC Submission to Theme Committee
1 On public participation and just on dates from page 2.

Chairperson Perhaps you should read those dates and all the details on
the actual programme concerned so that parties can
consider that.

Mr Chikane Yes, it goes as this. "Page 1, is that to reach the spectrum
of the South African society to inform, listen and debate
areas of Constitution and the process thereof. (2) cover as
much area as possible by informing as many Constitutional
groups as possible to visit all target areas as possible. 10

Areas that were affected by violence, natural disasters,
drought, famine, etc. (3) Chose the theme that had local
appeal to generate interest, job, housing, economy, in
urban areas, water, electricity, health care, for rural areas,
these are just examples. (4) There should be a team
composed of all members of 6 Theme Committees as to
give the public a complete picture of the progress made at
every one time. That is the first page. Then the second
page we have public hearing and the area would be on the,
I mean the date is 18 February '95, and the area would be 20
Western Cape and we said the venue would be Parliament,
and the target group would be Organised Formations like

institutions of learning, SANCOR and rate payers, employer and labour formations, for SACOB, medics, lawyers and other professional formations. And then the second event would be public fora, date 25th February, area it would be Eastern Transvaal. Venue to be organised. We thought those are the details that can be finalised by the person which finalises the programme. And the target group would be the disadvantaged groups, unemployed women, farm workers, farm workers and their employers I guess it is implied, and rural communities. Then (3) it is again a public 10
fora. On the 4th of March, the target group would be the rural community again, and this time it will be Northern Transvaal and the venue to be organised. Page 4, it will be a public hearing, the date will be the 11th of March. The area it will be KwaZulu-Natal, the venue to be organised, and the target group would be organised formations, just as point (1). And then we said and "B", we have excluded Gauteng and Northern Cape as the committee of higher profile people would be targeting those and we felt that North West has to be included somewhere. So that is the 20
document.

Chairperson

Thank you. Any comment or any input? Mr Marais?

Mr Marais

Chairperson, firstly to start on page 1, perhaps you or the honourable member would be in a position to explain to us why we should ... why we should discuss themes such as health care, electricity, water and so on, at a meeting that is supposed to be dealing with the writing of the new Constitution. Then secondly, on the submissions and the proposals with regard to various dates and venues, two of those referred to public fora and I always understood it that public meetings, public participation meetings will be, will be arranged and will be planned and arranged by the secretariat to cover all the Theme Committees, and that should not be done by individual Theme Committees. Then thirdly I just want to put it on record that the 18th of February is a date that no single member of the National Party would be able to attend any meetings, because we have to attend a meeting that we have planned actually in the fourth quarter of last year already.

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Chairperson

Thank you, Mr Marais. I think Mr Chikane will be able to answer. Perhaps one should indicate that there is no, this is a proposal merely put on the table. Amendments can be done, subtraction and additions, but let us hear the proposal. Mr Chikane?

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Mr Chikane

Chairperson, if we are going to be taking the Constitution to our people, and we are discussing it as a intellectual document, we are most unlikely to get our people to see the importance. We must always bear in mind that for 48 years, some of our people have never had anything to do with Constitution. In fact there are those who do not even exist that there is a, who do not believe that there is a document like the Constitution. We believe that for it to be relevant and for people to see its importance, is when it is related to things that appeal to their life, day to day life as at the present moment. The learned member has referred to, the honourable member has referred to the question of health, which has been one of the issues that has been raised by the President's speech, that health would be able to reach rural areas, and when we are going to be talking about the right of every South African, I think some of these issues are going to included directly, or indirectly. When we talk about new dispensation, new Constitution, we mean Constitution that will be able to cater not only to guarantee, but to make sure that the rights of our people are accessible to all the people of our country. So that is why some of these issues are included, electricity for instance

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has been a luxury for the few who can in urban areas. And as at the present moment, there are all kinds of schemes that are intended to make some of these facilities to be able to reach our people in the breadth and width of this country. Therefore we must be able to, when we talk and discuss Constitution, such things will be able to get people more interested, and they will begin to identify with new Constitution and their document, because it is addressing problems of areas where they have been disadvantaged. In as far as dates is concerned, we are not, our proposal was just a proposal and we felt that we should be able to assist the administration when they make arrangements, by being able to show gaps where they exist. The third question, I have forgotten.

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Mr Marais

The third one related to the question of public fora, which I said that I have always thought that it would be arranged by the secretariat, and not by the individual Theme Committees, (inaudible)

Mr Chikane

Comrade... Chairperson, sorry, yes, on the third one, we were asked as a Theme Committee to be able to come up with definite concrete suggestions to enable the secretariat and the administration to be able to continue with the

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programme. So we had put them as tentative as well.

Chairperson Mr Van Deventer?

Mr Van Deventer Mr Chairman, I really have difficulty in understanding talks with people or using things like water supply and electricity and things like, that to write the Constitution. The point is, Sir, that if we are going to the different communities to talk to these people and listen to them about all these things, do we intend writing it into the Constitution what the needs of every community is, or are? Or how are we going to handle these things? We must be very careful, Sir, that we don't frustrate the people more, by driving around and ask them for inputs on things like this, and at the end of the day they are looking for these things in the Constitution and it is not there. You are not writing about water supply and things like that in the Constitution, Sir.

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Chairperson Mr Chikane?

Mr Chikane Chairman, I really enjoyed the National Party's sense of humour. When we speak about the right of South African citizens, we actually mean such things, but it was not our intention that we are going to say everybody has got to have three meals, in the Constitution, we are certainly not going to say that kind of thing. But what we are saying is

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that there are certain services that people have always regarded as the prerogative of the few, because of our past history. We are not going to include them, we are not going to say in the Constitution that everybody shall have electricity, but we are going to say every South African citizen shall be able to have this and that. We are going to try to articulate to make the Bill of Rights of South Africans to be as understandable and as conceivable a document as possible, and that it what it is meant, we are not going to be detailing, that if you are sick you need a doctor, because indeed you do, you don't need to be, it does not have to be in the Constitution for you to know that you have got to go a doctor if you are sick. Health would have to be extended to those areas, because we believe it is a right of every South African in this new Government that, that should be the position.

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Mr Marais

Mr Chairman, may I follow on this point. I understood about this whole public participation and the Constitution making process, that that will be the opportunity for the public to put their views. Now we are told by the ANC that we are going to the people and tell them about electricity and water. Really, sir, I cannot see how you bring these things

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together.

Chairperson

Thank you. Mr Chikane?

Mr Chikane

No, I think it is true that we come from different traditions, the way we approach organisation, is actually quite different from what maybe the way, our honourable member from the Nationalist Party or, approaches organisations. You see we are trying to make the Constitution a living document, a document that will, is not going to be stored away in some archive, after its completion. The best way to mobilise people is to ensure that they understand, that they have rights and so on, those rights are not above fundamental rights. They are there in the Constitution. The health thing is there in the Constitution. So we are not saying that we are going to tell people that you are going to have electricity, but what we are saying is that immobilising people to come to this kind of gatherings you need to combine two things here, which are very important. The writing of the Constitution and their own rights, that if somebody stands up there in the meeting and say I want it written in the Constitution that electricity should be a right, a fundamental right, it is a submission that has to be considered by experts and even ourselves here. So I don't

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understand the separation, the separation is quite artificial, like I said, that it is a living document. It is a document that has to address basic concerns of people on the ground and I think this, the number 3 there, without actually going into it, Chair, is, is a form of mobilising people to identify with the Constitution and so on. Otherwise there is another option of simply going there and saying come and tell us what, what do you think of the Constitution. When many of our people don't even have the interim Constitution. Some of them do not even understand what the Constitution is, so I think it is important to combine the two things and indicate that this document is a living document, they have rights to and so on, and I think we don't have to, to really considerate on this particular issue. There is nothing hidden, there is no ulterior motive about it, it is just as simple as it stands there. You have to generate that interest to, their interest, whatever they are experiencing in life.

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Chairperson

Thank you Mr Chikane. Mr Meshoe?

Rev Meshoe

Thank you Mr Chair. Firstly I want to make a proposal that the ANC amend their proposal, because it is not in line with option 3, they have used all weekends, all Saturdays, I am

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sorry. And then secondly, we may need the help of the Management Committee to tell us what exactly must be done when we go out to the people, because if we are going to address every subject and need that may arise, we will never say anything that has to do with the Constitution. Time will not permit us to talk to people about everything they want to talk about. We know that health and electricity are issues that are dear on the hearts of the people. The fact is that if we want to keep to the time frames, it will be impossible to do that if we are going to talk about all subjects that people may think about. So I would proposal is that if we go out to get the input from people about what they want to have in the Constitution, let the people know that we are going to talk about the Constitution and not electricity, because everybody would like to have free electricity, including myself. If you, if people can think that they have that opportunity or the possibility of convincing Parliament to give them free electricity, we would debate all Saturdays about electricity. So I propose that we should not go to the people and give them the impression that we are going to talk about health and electricity, but let the people know that we are going to talk about the

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Constitution and then there will be some progress. Thank you.

Chairperson Mr Macozoma?

Mr Macozoma Mr Chairman, I think Reverend Meshoe has a prophetic licence, because there is nothing that talks about free anything here. But what we would like to do in order to accommodate the views around the house, is to rephrase section 3, point 3, such that it would read, chose the theme that has some relationship with the experience of the intended audience. So in effect what we are trying to say that if you are talking to a group of farmers you must expect that the land issue will be an important issue for them, so that what we say is that the theme must have some relationship with the experience of the intended audience. Would that be acceptable?

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Chairperson Doctor, I beg yours, could I give the follow up, Mr Nzimande. Professor?

Prof Ripinga It is a follow up on what Comrade has put up. In this document here if you look at page 12. Page 12 of this document and I know that Reverend Meshoe has raised this. Somewhere here they said TC members will be provided with a brief, compiled by the CA and law advisors

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before each CPM giving details of current issues in each TC, these issues will be drawn from the work programme, and I am trying to link up with the proposal that has been made again by Mr Macozoma, on trying to extract relevant issues that affect the target group. On the issue of, that has been raised here of rent payers (*sic*) and others, I think you are talking about organised formations and I don't see why we should raise a problem on that, but otherwise the guidelines are given in this document.

Mr Marais To say Chairperson that, Mr Macozoma's proposal would 10
be quite acceptable to us.

Chairperson Thank you Mr Marais. Dr Nzimande? Any other input?
Perhaps if one can facilitate a way out of this. There has
been a question of dates, I think the National Party has
indicated the problems with certain dates proposed in Mr
Chikane's proposal. Can we perhaps give some attention
to that as how do we handle that?

Mr Marais I would suggest, Chairperson that we leave that to the
secretariat to decide upon the dates of 'in consultation' with
the, with the various parties. 20

Chairperson Are we not creating problems, because we were supposed
to be starting very quickly early in February, it is in the

second week or third week, the public events are supposed to be arranged, the public hearings should be arranged and venues should be arranged and so on. Now if we leave certain things to parties or some other people, when the management or perhaps the administration is expecting us to come up with a programme, acceptable to the Theme Committee are we not perhaps, would we not cause delay by so doing?

Mr Marais

Well the first date that you mentioned after having consulted the secretary was the 15th. Now that date has already been set aside for us to meet, it is quite acceptable and that is next week, if I have it right. I think we should start then with the 15th next week to have our first public hearing.

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Chairperson

Mr Chikane, or even the other people who are, you came with the proposal that the 18th should be a starting date. Now here is a proposal from the administration that they have already hinted to these people the 15th of February, of the same month you are proposing, in other words a question of three days difference, what is your view on that?

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Mr Chikane

Chairperson, I think may be we would be able to get

consensus from the house because that is going to be something that effects all of us. Whilst we are here, let us just get into it and sort it out once and for all.

Chairperson

Alright. What is our feeling then between the 15th and then say by the date of the 15th or 18th February, does it matter so much? Dr Nzimande?

Dr Nzimande

Comrade Chair, I don't know whether the it might be the big lunch, may be that is why I can't follow. Just for clarity, we are talking about two different things here, we are talking about public participation, which is going out to the people either in the form of forums, or seminars or whatever. And then we are talking about public hearings whereby people come and give evidence in front of us. Now we seem to be discussing these things simultaneously. Now I seem to be lost somewhere. I don't know whether it is my big lunch or a real objective confusion that I have. Can I be clarified there?

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Chairperson

I don't know whether I am that person to clarify, but if I understood the proposal from Mr Chikane, he is having a combination of this event. In other words the first one seems to be a public hearing somewhere in the, the venue being Parliament if I understood it well and then next you

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have a public fora, a public forum then, which I don't know which place did he mention, but it is somewhere in another province. Then the next one again is a public forum in another province, then the next one is a public hearing again in another province. So there is a combination of these two types of events, but not at the same time, at different times and places it would seem.

Dr Nzimande Can I follow up?

Chairperson Yes.

Dr Nzimande In this case I think that public hearings then ... if they are here, we can have them during the week, and public participation events where we go out, of course they will have to be, now in terms, on a Saturday. So I think that perhaps for hearings we can look for during the week.

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Chairperson Mr Chikane?

Mr Chikane Chairperson, I think in order to make a break is that the 15th we can accept the 15th for a public hearing here in Parliament, and what was the problem with the 18th?

Mr Marais The National Party has got a problem. Chairperson is that last year already we planned a meeting of all National Party representatives in Parliament and in the Provinces, to take place on the 18th and we have done a lot of work in that

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regard and we won't be able to change that date.

Mr Chikane

I don't think it should be a problem, as far as I am concerned from our side, if public hearings are shifted to the 15th.

Chairperson

So do, is there is consensus that public hearings somewhere around Cape Town, the venue being Parliament, should be on the 15th of February? Is it agreed by all parties? So there you are, I think the secretariat is having it, then arrangements for public hearings to be in Cape Town. There is no problem, madam secretariat? The Theme Committee wants it that way. The Theme Committee would like to have it, and whether the Liaison is having some other problems, don't worry, the Liaison will continue with, they have asked the Theme Committee to come up with a concrete proposal. So it is a proposal that on the 15th a public hearing is to be held here and you have a list of the people to be invited, and some logistical arrangement we hope are to be made. Thank you very much for having cleared that. And then there are a number of dates mentioned by Mr Chikane. The next one I think is in another province. Could he perhaps remind us and hear what the feeling is of the meeting.

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- Mr Chikane The next one to be the 25th of February.
- Chairperson Where about?
- Mr Chikane It will be Eastern Transvaal.
- Chairperson Let us hear the views on that one. We have sorted out the
15th for the public hearing, now it is a question of having,
is that a public hearing or public forum?
- Mr Chikane A public forum.
- Chairperson A public forum in the Eastern Transvaal to be organised.
Mr Meshoe?
- Rev Meshoe Mr Chair, I though we adopted option 3 and if we did, an 10
amendment has to be made to those dates. Thank you.
- Chairperson Mr, Dr Nzimande?
- Dr Nzimande Chairperson, I think that as the ANC we made this proposal
because we wanted to, well it is part of what we had agreed
upon that parties should come with proposals. Perhaps in
view of the fact that we have just shared the Principles that
we think should underline the public participation, from the
point of view of this Theme Committee, and in the light of
what Mfundu (*sic*) is saying here, shouldn't we then ask the
Core Group to iron out this, as quickly as possible. 20
Because now if we are to sit here and debate venues, day
by day, that will take us a long time, so that they streamline

this proposal of ours with the option that we have adopted and then the Core Group just sits and works through this quickly so that very soon we have our first event.

Chairperson Any other view on that? Is that view supported? Thank you, so the Core Group will continue looking at the appropriate dates and taking all the dynamics involved in this matter. Does it now apply to all the public events of the proposal, Mr Chikane?

Mr Chikane Yes.

Chairperson Thank you very much. Any other matter to be raised under this item of public participation, over and above what we have discussed so far and agreed upon? In the absence of any ...

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Mr Van Deventer Mr Chairman, may I ask a question on this issue? If we are going to the public about the ...

END OF TAPE

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Theme Committee 1 Meeting 8 February (2):

Mr Van Deventer ... Constitution, I believe that we will receive the questions from the public, and will the answers come from the submissions made in the reports of this committee and the other committees, the guidelines will that be put before the people to discuss? Or are we going to these rallies, each political party with his own story, because I think that we will destroy the country, we will destroy the, I just want clarity on this, please.

Chairperson Yes, I would put it to the meeting but I think if one understood the guideline of the CA is that we don't go as political parties as such, although members of various political parties will be going to specific places for a public event, but it is the CA structure which is going out and not necessarily the particular parties. So I would assume anything to be said must be conforming with the operations of the CA, but I am leaving it open for the members to answer the direct question.

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Dr Nzimande Chairperson, that does not stop us from going to National Party strongholds every Sunday.

(Laughter).

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Chairperson Mr Chikane?

Mr Chikane I think if we were to look at page 4 of this Theme Committee, A.10, the last paragraph on page 4, page 4 of this document, it reads as thus "the programme of the Constitutional Assembly should be non-party political. Theme Committees should ensure that the programme promotes the Constitutional Assembly and the interests of the country as a whole." I think that should, it is in this spirit that we should be going out.

Mr Van Deventer Mr Chairman, in all respect, I don't want to be difficult. All of us understand the words that is written into this document, all of us understand it. But the point is, sir, if you are in this situation, in a stadium or else, or anywhere where you are talking to people, here they make provision for a facilitator that can speak for 45 minutes, that is important, sir. Will that be an a-political person, who will it be? The second point, sir, the questions, the closure, what are people going to use the closure of this meeting for? Who are going to close the meetings, because, you see, sir, no, no wait, point 8.5 on page 9, sir. That is making provision, it is only 10 minutes, but in 10 minutes time, sir, any politician as the Chairman correctly said, experienced politicians like the people around this table, can use 10

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minutes very, very fruitful to react on questions, and to leave certain perspectives with the people. So it is very important that we have clarity on these things, otherwise some political parties will take advantage of other political parties, and I think we must go into this on an equal basis.

Chairperson

Mr Kekana?

Mr Kekana

I will appeal that we consider the whole of 12.5, and on page 12, because if you read it in relation it might create problems. I think every sort of item on that proposed agenda or instruction, or the CPM is actually explained down there. "Criteria for the selection of the chairperson will be established by the CA. The chairperson should be neutrally identified from the community and if you are saying it is a neutral chairperson, whatever that means, that 10 minutes in closing, we are not talking about a high profile politician here. And I think in as far as the CA is concerned, I think it is stated there that the facilitators are going to be talking about the Constitutional process, and facilitate the making of submissions but no, if you want to make submissions, it is more technical, and I think obviously the fears are there that you know if you go into Ulundi, you know, the chairperson might not necessarily be

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neutral, but anyway there will be somebody who might be neutral there, just to give you an example, and therefore in closing that person might summarise in a particular way. But I think these kind of fears are not unfounded, but I think we need to continue, they can't stop us from moving forward. Whatever neutrality means, but I think let us move forward and go to those areas, and I think it will be an experience for those who have attended public meetings before.

Chairperson Thank you very much. Oh, Mr Mtshali, is having a very good idea of solving this problem. 10

Mr Mtshali I hope the Chair is not putting any words into my mouth. I am raising an objection, to reference being made to Ulundi as not being a neutral, I am raising an objection. That example is unacceptable. No, order. Order from the Chair. On a point of order.

Chairperson A point of order you are allowed.

Mr Mtshali I am sure the speaker could have referred to any other place. Ulundi does not belong to any political group, it is part of South Africa and I think it is high time people now. He could have said Pretoria, or Ekangala or any other area. Or Stellenbosch, or Ventersdorp. So I think that that 20

reference is unacceptable.

Chairperson

Mr Momberg?

Mr Momberg

Mr Chairman, I would really like to call on especially Mr van Deventer, to give this process a chance. If we are going to go through this process with all the suspicions of what could happen, then this is not going to work. I really believe that we should give this opportunity to all the people to go out there, and if something goes wrong the first time, come back and complain. I mean we know that you will come back and complain, but give this opportunity a chance. I think there is enough guidelines here to make this thing work, and I don't think we should go now and "haal al die ou bobbejane agter die bult uit."

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Mr Marais

I think that nobody has got a real fear that this thing will go wrong. It will only go wrong if it is badly handled. But I think what one should be quite clear on, is that nobody wants political dog fights and these occasions, that is the point, that is point number 1. Secondly we should clearly distinguish between what our Constitution issue is on the one side, and political issues on the other. As long as we can keep that difference clear before the people and the people understand it, then we won't have any, any

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problems. That is why Mr van Deventer is completely correct in his assessment that a thing of this nature could go very wrong, because there are people outside who may abuse the position, and it does not matter from which political party they come, and if that happens then you could have a situation developing into political dog fights and that none of us would like to have. Because we would really like to know from the people in as so much, even in this Transitional Constitution, which people could tell us, will they like or they don't, or what they would like to see changed. The powers of the various bodies and so forth, the role of the Government and the role of the traditional leaders, and so forth. So that is the sort of thing that we would like to hear. There is an old saying which goes like this "not people build the nation, institutions build them", and this is what we want to know from the people whether they like the institutions or they don't like what we have, or what do they propose instead of it. But we shouldn't get knocked down into policy issues, party political policies when we have these meetings.

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Chairperson

Thank you very much. Perhaps we should remember that almost the conclusion has been reached in this matter, we

said the rest of the dates are referred to the Core Group to deal with them, and only the clarification and certain questions were asked, and they are being answered and I hope that they have been answered successfully. In the absence of any other thing, I would, before I rule that we part from this item, I will just give Mr Macozoma, him being the last person on this and then we will go the next item.

Mr Macozoma

Chair, I just want to give an assurance that from this side of the house there is complete agreement with the National Party, of not making these issues, I mean these fora political dog fights. I think that the process and the method of separating points of agreement from contentious points, allows us to know exactly what are the areas of agreement and to be honest about the areas where we have some disagreement, and I believe that like Jannie over there, it is possible to make this thing work, and there is a commitment from our side to make sure that it does work.

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Chairperson

Thank you very much. We will then go to item 3, I think, which deals with the report from the Sub-Committee. The Sub-Committee is available, I hope they have arranged who presents their matter to us. Over to the Sub-Committee. Is the Sub-Committee ready and available in

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this house? If so, let them help us, or have they not agree on who presents the report?

Mr Mtshali

Thank you, Chairperson. In the first place, I would like to say that after the Theme Committee meeting yesterday, representatives of parties were convened by the secretariat for the purpose of electing a chairperson. Proposals were made and a speaker was elected as chairperson. The following parties were represented at that meeting, the ANC was represented by Ms Routledge and Mr Lekgoro. The Freedom Front by Dr Mulder, the DP by Mr Moorcroft, the NP by Mr Streicher, and the IFP by Ms Seaton. The two parties that were not represented were the ACDP and the PAC. The Sub-Committee immediately looked at its assignment, namely the drafting of a preliminary report. There was agreement on the structure of the report, that it would reflect non-contentious and contentious issues, and that the Technical Committee would assist in working through party submissions as well as submissions from non-political parties and individuals. And that the Sub-Committee would reconvene at 4 pm in Room 201. When we reconvened at 4 pm the Technical Committee tabled draft proposals for consideration by the Sub-Committee.

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The Technical Committee did indicate that to work against time constraints, and that they had to produce a report so they produced a report by 3 o'clock and it had to be typed from 3 to 4. Furthermore they had to frame the draft in broad terms according to their explanation, there was room to develop that broad outline at a later stage. The Sub-Committee appreciated the effort put into this work by the Sub-Committee and of course the Sub-Committee did indicate that time did not allow for the ... for working through the submissions from the public and individuals, and they requested that this morning they work through those submissions. This indeed was granted by the Sub-Committee with the proviso that there be an element of flexibility, there could not be rigidity when there is so much paper work to work through. After the tabling of the document there were comments made by members of the different political parties, and at the end of the forum it was pointed out that the document in question had the status of being a framework document, which would then be brought to the Theme Committee for consideration today. I accordingly tabled the document as a framework for discussion at this Theme Committee, thank you.

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Chairperson

Thank you very much, Mr Mtshali for being so able in putting the report of the Theme Committee, I mean the report of the Sub-Committee to the Theme Committee. You have mentioned that there are certain additions to certain matters regarding the private persons' submissions, which the Theme Committee, which the Technical Committee should of prepared this morning, seemingly after this report had been compiled. If I understood you well then perhaps we can give the Technical Committee an opportunity to present that part of the report, if it is available.

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Unknown

Thank you Chair, just on behalf of the three of us can I say that I think that the Chair of the Sub-Committee has only summed up what our opening remarks were, in the context of which we handed this document to them yesterday afternoon. We have been working on the private submissions all morning. The ... There haven't been any noticeable variations which cannot be fitted in, within the very broad compass of the points which you already made here. We haven't completed that task yet. We got given another very thick pack this morning, so we have got nothing else, we have got nothing else in writing at this point.

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Chairperson Ladies and gentlemen, we have had the tabling of the report and I think we have had the opportunity of reading the document on page 15 and page 16, and with that advantage we have had, the matter then is open for discussion. Mr Marais?

Mr Marais Chairperson, I would like to ask, pose a few questions to either the chairperson of the Sub-Committee or the members of the Technical Committee or both sides. Firstly I would like to refer, honourable members, to the document that we have before us under non-contentious points. If one looks at A there, the Constitution shall be the supreme law for that. That corresponds more or less with Constitutional Principle 4. Now what I want to ask is, why don't we follow the wording of the Constitutional Principle, because that has been agreed to by all parties and it now forms part of the Constitution, the present Constitution as a schedule 4 to it, and we all as Constitution makers are bound by those Principles. It wouldn't it be wise and better to follow the wording as we have it in the Constitution? The same applies to quite a number of others, like for instance, I would like to, for instance here, F, elections shall proceed on the basis of proportional representation. That relates to

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Constitutional Principle 8 and so I can go on, so that is my first question.

Chairperson Thank you. There is a question put forward. Will anybody attempt an answer? Okay, before we give the Sub-Committee, Mr Macozoma would like to come in.

Mr Macozoma Was it for the Sub-Committee that, that ...

Chairperson Not really, but I was looking at them as being the drafters of the document, but I think you are welcome to make a comment.

Mr Macozoma Chair, I want to support the view expressed that the Principle as contained in the Constitution, should be the one that is substituted for this formulation. But I think, I think that I would limit my agreement to that particular issue only because I don't think that we would do a one to one substitution for all those that seem to be similar otherwise it is a feeble exercise. But I think with respect to 8 I am in agreement that we follow the Constitutional Principle as Stated in number 4 in the schedule 4. 10

Chairperson Thank you very much. Any comment from the Sub-Committee or the Technical Committee? Mr Moorcroft? 20

Mr Moorcroft Chairperson, yes, I am in broad agreement with what has just been suggested. In fact if one does a check list of

these 10 points which have been isolated by our technical experts, we will find that of the 10 at least 8 if not 9, are covered in the Constitutional Principles. The only one which is definitely not covered is there shall be a separation between State and religion, point number I. I speak under correction, but I can't find any reference to that under the Constitutional Principles, and then item D seems to be covered in a number of the Principles. So in fact we are, in terms of the ... we have in terms of those 10 points been fairly consistent as a Theme Committee that we have isolated all those issues which, on which there has already been consensus agreement in the past. And I should like, Chairperson, to make a suggestion because we have after all to make recommendations, I should like to make the first recommendation this, and may I just by way of background. I think that the Technical Committee has done a first class job of work. I think they have expressed these non-contentious points clearly, concisely and in an uncluttered way and I wouldn't like to see us now start a detailed interview, we would just be looking for trouble I think, because these are now clear and easily understood. I should like to suggest that these go forward, my

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recommendation from this committee would be that these go forward to the Constitutional Committee, and that they be sent forward as representing a fair summary of the participants, that is our submissions and debate, and that these points will then form the basis of our idea of a democratic State. Then, Chairperson, that actually deals with at least half of our work. If I may be permitted just to move on, and please stop me if you rather I didn't, to contentious points, where I think more debate may arise. Chairperson, what is interesting ...

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Prof Ripinga I don't know, sorry Mr Moorcroft, I don't know if may be we could focus on the matter of contentious, because the ANC has a couple of things that they would like to raise. If you don't mind?

Mr Moorcroft No problem, Chairperson.

Chairperson Thank you very much. Professor Ripinga?

Prof Ripinga Thank you Chairperson. The question that I want to if possible direct to the Technical Committee, in regard to Principle 8, somewhere there where they talk about this whole question of elections. And then they talk about regular elections, a common voters role, and in general I want to understand the interpretation of that, "and in

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general, proportional representation," what does "in general" mean.

Chairperson You are allowed.

Unknown Thank you very much. Chair, can I just say before I respond to Professor Ripinga, he was reading from Constitutional Principle 8, which is not our language. That is what is viewed upon at the World Trade Centre. And then can I say in response generally to Mr Marais' points and Mr Macozoma's points, about why they weren't couched in the language of the Constitutional Principles. We were required, or asked by the Sub-Committee to take the parties' submissions in full, not the synopses to take the parties' submissions in full all of them and to try to distil questions or issues which we could, thought were contentious and those which were non-contentious. So we didn't work from the Constitutional Principles and I think it is remarkable in fact that the non-contentious 10 points that we isolated from the parties' submissions, coincide to such an extraordinary degree with the Constitutional Principles, that were agreed upon and which are contained in schedule 4, to the Constitution. We therefore used our own language, and I could respond in particular to A, we thought

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should we put a full stop after the word "land", instead of a comma, but then we ... some parties had had differing understandings of what it meant to, of what the Principle of Constitutional Supremacy meant, and therefore we isolated what we thought was the, the meaning of that Constitutional Supremacy, which I would respectfully submit, is the same as it shall be binding on all organs of State and all levels of Government. We set the standard against which all legislative, executive and judicial actions shall be measured. I think that the effect of those words is the same as the Constitutional Principle. But I would just lastly ... I would like to emphasise that this is a broadly phased framework and of course it is entirely in your hands to add, subtract, amend it because it is the Theme Committee's report.

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Chairperson

Mr Houzyn (*sic*).

Mr Houzyn

I don't have a mike here, so maybe I will just yell. In direct answer to Professor Ripinga's question regarding the words "in general proportional representation". My personal viewing, I haven't discussed this with my colleagues, is that this wouldn't for example preclude representation on the basis of a combined system where you would have

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constituency based representations combined with proportional representation.

Chairperson Professor Ripinga, wants to follow up.

Prof Ripinga Thanks, Chairperson. I am raising it because I note that "proportional representation" has been placed there as a matter which is non-contentious, but I think that subject needs to be examined and that is why I am trying to extract that portion, to provide a possibility of looking at that "in general", to try and see whether a combination could not be looked at, because as it stands there it is alright, but the "in general" if that is the interpretation, I think it satisfies me, if it makes provision that we can begin to explore combinations you know of election mechanisms.

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Chairperson I think Dr Nzimande's hand was up, then the Professor.

Dr Nzimande Chairperson, thank you. I think that I would like to follow up from Professor Ripinga is saying, and make it a very concrete suggestion. As the ANC we are not against proportional representation, but what, what we have been exploring is the issue of possibly a combination of proportional representation of a constituency, a type of representation. It would be too strong may be to put it that it is an area of contention as of now. Perhaps what we

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would suggest is that instead of placing it here as a non-contentious point we also do not place it as a contentious point, but maybe request if of course if there is agreement that the Technical Committee examines the whole issue of proportional representation on a constituency basis within this, because from our experience right away, there is a general complaint in the country that whilst proportional representation has got an advantage that it tends to isolate your representatives from the base, and if there was consensus here, I don't think that it should be approached from the point of view of raising it as a contention necessarily. But as the ANC we are fairly broad minded in this point in time that shouldn't we explore a little bit further, how can one improve on this, that is why Professor Ripinga was wanting to clarify "in general" what it means. Does it mean that it is exclusively to proportional representation or the phrase "in general" allows us some other kind of combination, and also it was my understanding that that has been an issue also for all the parties, that whilst proportional representation is an advantage, but also it has got its own disadvantages. That would be a proposal that we would like to make from the ANC, that maybe we give

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that work to the Technical Committee, to look at the feasibility and possibilities of going beyond just single proportional representation, but to look also at a combination and examples and so on, and they give us evidence.

Chairperson I have the next person being Gumede ... are you ... did you want to have a follow up, I beg your pardon?

Unknown (NOT SPEAKING INTO THE MICROPHONE) ... made to the Technical Committee to advise us in regard to what the words "in general proportional representation" would mean and that they should also advise us whether that relates, when it says there "there shall be a representative government embracing in general proportional representation", whether that relates only to the legislature or whether it also includes the executives.

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Mr Moorcroft Chairperson, may I make a suggestion, and I think it will clear this up ...

Chairperson Yes, just a minute Mr Moorcroft. I had on my list actually after Dr Nzimande, Gumede, I will come to you. Mr Gumede?

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Mr Gumede Honourable Chairperson. In fact, whilst broadly agreeing that perhaps some of these Principles are very near the

Principles as they are stated in the Principles, I think it is better not to be broad on issues of the Constitution and be specific and therefor I would suggest that we deal with A as A, and when we are finished A and know exactly what we have in A. Similarly with B, C, D and so forth, and like some of the paragraphs like F, there could be a better phrasing which could include taking into account the need for constituency representation, and specifically stated so that we do not dwell into endless debate some time in future. Thank you.

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Chairperson

Mr Moorcroft?

Mr Moorcroft

Chairperson, I should like to suggest and I think that this will meet the problem which Dr Nzimande has, that all we do is we simply rephrase that by saying elections shall, in general, proceed on the basis of proportional representation, which echoes the provision made in the Principles ... the Constitutional Principles. That leaves it open as Dr Nzimande said, the "in general", make it open ended, but I would like to go further just to say that this actual question of the nature of the electoral system is covered under Theme Committee 2 Block 5, where it says, Electoral System and that is place, chairperson, I would

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submit where this whole thing can be looked at in detail. It is really not for us, that is a specific injuncture to Theme Committee 2 to look at the electoral system which would include proportional representation, constituency systems the whole lot. So I would be hesitant to see us getting involved in the details of electoral systems in this Theme Committee.

Chairperson

Mr Macozoma?

Mr Macozoma

Chair, can you ... Chair, I have no difficulty with Mr Moorcroft's point. But I thought that Dr Nzimande here was taking in us in the direction which we could be able to create a new category. We have now contentious issues and non-contentious, but there are certain issues on which we don't have enough information, to declare them contentious or not, so I want to suggest that we create a third category, which would be issues that need further investigation and in that category we will put all those issues that are referred to, to experts of various kinds. So that we don't force ourselves by categorisation, into a situation where we create issues contentious or not. We have a further category that says these issues need further investigation. For instance what is the appropriate mix

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between proportional representation and constituency based system. What are the indications? That will fall into that category.

Mr Moorcroft

A point of clarity please, Chairperson. May I just ask Mr Macozoma whether that would go forward as a recommendation, then to the Constitutional Committee, but not necessarily for investigation either by us or by our experts, because for example, then we do come into the whole matter of the contentious points, where I would suggest all of these contentious points themselves fall into the Theme Committees, other Theme Committees' work. So we would be saying for example whether parliament should be bi- or uni camera instructed, also actually is not our responsibility but it is Theme Committee 2's responsibility, as a specific brief to Theme Committee. So what I am wanting to know is would be putting this forward then to the Constitutional Committee as a recommendation that this actually falls in the ambit of another Theme Committee's work?

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Chairperson

Are you responding to that? Mr Mtshali, I am recognising you. Mr Macozoma?

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Mr Macozoma

Chair, let me, I think we need to take out those things that

don't belong to us. If the uni-camerals or bi-camerals does not belong to us, we should just say it belongs to Theme Committee 2, and take it out of our ... whether it is contentious or not, take it out, and be referred to the appropriate committee. I am sure they are dealing with it any way. So we must just detract those things that don't belong to us and make sure they are out of here. Once we have done that what will remain then is those issues that concern this particular committee, on which there will still be contentious and non-contentious issues, but beyond that the third category that I am suggesting is that one where we don't want to make a determination as to whether is it contentious or not, because we do not have sufficient information, and we are therefore asking for further investigation.

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Chairperson

Mr Mtshali?

Mr Mtshali

Thank you Chairperson. I would like to kick off by making reference to resolution of the Constitutional assembly, the resolution of the 31st of October in 1994, on page 16. Paragraph C and D. It reads: "Theme Committees are not negotiating fora. Their primary task should be to receive submissions, and process them into reports for

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consideration by the Constitutional Committee. By resolution of the Constitutional Assembly these reports should therefore include details of non-contentious issues, contentious issues and suggested approaches." Sir, it is my humble submission that our task as a Theme Committee is to receive submissions and collate those submissions. It is not our task to negotiate on issues because the negotiation process comes at a later stage at the Constitutional Committee stage, and the Constitutional Assembly stage. It becomes important therefor to state that at this level, we would expect that the party submissions are not handled in a manner which tries to reconcile them, because that approach will create problems. Quite of lot of inputs will disappear in the generalities and in the process of reconciliation. It is the considered view of my party that our submission be not filtered, but that it goes as is to the next level for debate and discussion. Thank you.

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Chairperson Thank you. Ms Routledge, Professor Kota (*sic*), and then Mr Kekana, and Ms Pikoli.

Ms Routledge I think I am covered, Chairperson I was going to speak to the issue of a third category which Mr Macozoma has handled. Thank you.

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Chairperson

Thank you very much. Professor Kota?

Prof Kota

In a sense Mr Chair, I am just responding to some points made earlier on, and merely just to repeat something in clear terms, that we said yesterday afternoon when we met the Sub-Committee for the information of the whole house here. We, we endeavoured to confine ourselves to Block 1. Block 1 is called democracy and the character of state. In a sense that is everything that is in the Constitution. If you look you will see the agenda which was, the suggested framework for an agenda, item no 1 which was given to the Theme Committee, on the basis of which we work, number A is called general Principles. Now if you compare the work or the projected work of this Theme Committee with that of the other ones, this Theme Committee appears to cover the entire spectrum of the Constitution in some ways. It touches on many different aspects of the Constitution, and it seems as though there are very few which are exclusively for this Theme Committee. It seems to be things like the language issue, the preamble and various other, other matters. Therefor we endeavoured to identify issues of general Principle only at this point. Later on in the other 9 Blocks which lie in the future, the other 9 Blocks in the work

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of this Theme Committee, several of these issues will be revisited for greater clarification and greater detail. Other issues don't appear to appear to be revisited at least in the anticipated work programme of this, of this committee. For instance as Mr Moorcroft has pointed out, the electoral system is given as a separate Block to Theme Committee 2. We have got here under C, non-contentious points, fundamental rights. Now fundamental rights has a whole Theme Committee working on the issue. We therefor ... and then perhaps just in response to some other points made. Some of the party's submissions confined themselves to Block 1 and that made our task relatively easy. Other party's submission went wider than Block 1 and dealt with a much wider range of issues, and therefor some of the, some part of their submissions will not already be reflected here, but are still in the papers, still to be incorporated in future, in reports for the future Blocks. Thank you.

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Chairperson

Thank you very much. Mr Kekane?

Mr Kekana

Chair, I don't know if we are going to be able to take in all this. I think Comrade Gumede here made a suggestion, that we go, if we go A, B, C, D, and so on I think we will be

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able to join the some of these issues in a much more organised way. But I think there are general issues that have been raised. The honourable, Mr Mtshali there raised that an issue which is very, very important for clarity sake, and I think it is useful that we understand the purpose of this exercise and what Sakkie proposed also. So I think one will attempt to clarify that, in that particular area and in addition to as Mr Mtshali correctly read the resolution of the Constitutional Assembly there, the is an area there that is mentioned that we need to make suggested approaches to some of these areas. Contentious or non-contentious, and it is in that spirit that the proposal to have an area called, let us call it parking bay, I think those who understand computers, there is something called a parking bay where you don't tackle the issue, because there is a need for further investigation and research. So we are saying that we have technical experts here, and on an issue such as that one of proportional representation, there is a need to investigate more and enlighten us

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End of Tape 2

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Theme Committee 1 Meeting 8 February 1995 (3):

Mr Kekana our rule is then reduced to just being transmission belts here, and I think that it is important that when we consider that resolution let us consider it in toto, that beside the receiving and processing, there is also that area of making suggestions in as far as approaches are concerned, and it is in that spirit that this debate shall then continue in that particular position. But it is not the intention of various parties here to convince each other. If we for instance we agree that A, the formulation of A is right there, there is no need for us to give the CC, you know, some difficulty in telling them that A is fine as it is and so on. There is no need for us to go deeper into it. But if for instance at a later stage parties feel that one party would like the issue there, they feel that it is contentious because I don't know of what, in developments I think at the level of the CC they could still handle that. I don't see anything wrong with that.

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Dr Nzimande Can I just follow up with a point of clarification, if there is something like that, in the ANC there is, Comrade.

Chairperson Let us try and accommodate you, whether it is there or not.
Let us give you a chance, doctor.

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Dr Nzimande I think in order not perhaps to waste too much time on

process, which is necessary as we stumble along that we continuously reflect on process, but also not to spend unnecessary time. I would have liked to have sought specific clarification from the IFP, as to whether their intent of the understanding that they are articulating now, are they then saying for instance creating a third category, the parking bay, we have got the computer experts here now, so we have got the lingo. Would they regard that as problematic as going beyond the bounds of the Theme Committee? Secondly, the clarification as around the point that I think Mr Mtshali was making there, submissions of parties should go forward to the CC as they are. Now I would like to see clarity there, because their are interpreting that is that even this exercise of trying to find these short sweet-to-the -point sentences, which I think the Technical Committee has done exceptionally well. I would like to endorse that in other words this also could be a fruitless exercise because we want all the submissions as they are to go forward. I would like to see clarification on that, because Mr Mtshali raises this in relation to the suggestions that were made. I would have like to see them saying, the IFP specifically saying "no, we don't agree with this and that

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and that and that specifically." So if I can see clarification, because it would shorten this. Maybe we are now going into process when there isn't a need and in fact there might not be a difference.

Chairperson Thank you very much. Just before we allow Mr Mtshali to clarify, without allowing all the people to go out, but there is tea in front here. But we should not all go out, and I am just saying that some of us want to they can go out and fetch some tea, there is nothing wrong there.

Unknown All those with royal blood first.

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Chairperson Alright. Mr Mtshali you are allowed.

Unknown Before Mr Mtshali reacts, you know it would be better if we all comment on what he has said in terms of the process, and then he can be the last speaker in this respect.

Chairperson If you have something to say you are allowed to. I will recognise you.

Unknown Yes, when he read the resolution he talked of "process" and when he explained he talked of "collating". The two words are different. To collate is just to collect whatever, it comes in and put them together. Without doing anything. But to "process" also in the language of computer now that the computer people are here, to "process" is to actually

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classify, to sort, to calculate and that you will try and put some exercise in whatever you receive, and the communicate to whoever must take a decision. So I thought that we are exactly doing that processing, but not collating. I just want an understanding on that. We are not collating, but we are, the synopsis that we are receiving, it is a collation of submissions. The exercise we are engaging now in is a process, we are processing. Classifying, numerating and getting technical advice, that is why the people are there and then from here we communicate to the CC in order to take a decision. We are not taking decisions at this level, but we are processing, putting our minds in whatever is here, in order to send something that is rational, so that the CC can take a decision. And then on the issue of submissions, whether this reaches that side as a whole or not. I think the CC definitely will not just confine itself to the reports as they are. They will make reference, if they want to quote a contentious issue from a particular document, I think they will do that. I don't think that now at first stage, we are saying we are collating we are processing, then the CC will not see what the parties have submitted. I don't see it in

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that way. So I need an explanation on the collation. Whether collation comes in the resolution, or process, because firstly process was referred to and later collation.

Mr Mtshali Thank you, Chairperson. It is true that the word "collation" does not appear in the resolution.

Chairperson Mr Mtshali, we will give you a chance. There is seemingly ... there are people who would like to add something before you, so that you respond to them all. I don't know whether, if that would be

Mr Mtshali Chairperson, am I in the dark?

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Chairperson No, by no means, all what perhaps they were trying to do is that you respond once instead of responding to individual questions, but if you chose to do so, no problem.

Dr Nzimande Chairperson, can I raise a point of order. I am not supporting Mr Mtshali to speak now, because we happen to come from the same province, but the reason why I was asking for this clarification is that if Mr Mtshali clarifies now, it might not necessitate a whole range of interventions that are likely to come afterwards, because we will then know exactly what does the IFP's stance mean in relation to the way we carry things forward. Rather than engage in that when we are not sure, exactly what the implications of what

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the IFP is saying for the process, so I would plead that we allow Mr Mtshali to make this clarification, because the other interventions might not be necessary then afterwards we may be able to proceed.

Chairperson I will allow Mr Mtshali, but let us have Ms Pikoli putting, saying his say and then Mr Mtshali goes then.

Ms Majola-Pikoli I think also on a point of order, my understanding is that there were two proposals that were made, that were put on the table here by Comrade Sakkie and by Comrade Don Gumede, and I must say that the Chair did not follow the proposal, that was before Mr Mtshali made his point, so that we needed to consider the proposals that were made about the issue of how to look at the, at the additional submission about the technical expertise having a different category where they assist us with more information. I think that would have assisted us, we needed to solve that before we take what Mr Mtshali puts in place.

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Chairperson Thank you very much, but unfortunately I cannot prevent Mr Mtshali if he wants to respond, and say he must wait until we sort out the two other proposals. Let us allow Mr Mtshali to go ahead.

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Mr Mtshali Thank you Chairperson. The IFP has a problem with the

manner in which the points it raised in its submission are summarised in the document. We feel that the expressions used and the couching of the message in general terms, will make us lose the essence of our understanding of democracy and the character of distinct. This is why we are making a legitimate request that our work should go forward as is and be debated fully for what it is worth. This is a legitimate request that we are making, sir. Thank you.

Chairperson

Thank you very much. I think the request is there, and I believe the CC will have to look at all the submissions in full when discussing the matter when it becomes necessary to do that. This merely to help, I think, the report which goes to them, it is merely to help them look at what one might call a synopsis of the documentation. But let us have it this way. The one proposal by Mr Macozoma, is there a second for that proposal, in other words the proposal of having a third category being put, there is contentious and non-contentious and then the third category?

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Unknown

I second that.

Unknown

The ANC proposal.

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Chairperson

Right. Any decent from that?

Mr Marais

Chairperson, just on a point of procedure. How far are we

bound by the decisions taken on the 31st of October last year? Because if, if we are bound by those decisions, are we entitled to have another category? Are we?

Chairperson What is that decision perhaps? If you can say the particular one which contradicts this one.

Mr Marais Well you see, Mr Mtshali has already read out from the document what was taken on the 31st of October, what the position is. It says here "these reports will therefore include details of non-contentious issues, contentious issues and suggested approaches". Isn't that where we should deal with that?

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Chairperson Is that the third category, the suggested approach? Ms Routledge, you are the next person, I will give you an opportunity. Mr Lekgoro I apologise I did, you did raise your hand, I didn't take you.

Mr Lekgoro No actually Comrade Chairperson, I think the National Party has seconded our proposal that we have a third category, whether we call it proposed approaches or recommendations, it means the same thing, and perhaps I think to help the process let us go by the proposal that we go through the points and if the IFP maybe wants to suggest a re-wording which I am sure the ANC also has

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some proposals, or amending, then we go through the process and see which are the areas that the IFP or any other party does not feel properly represented.

Chairperson Thank you very much. I intended after brainstorming that we do that, but let us get this major aspect whether we go for the third category too. Oh, alright. I will look at you. Is it just a question?

Mr Lekgoro Can I, can I try and assist this proposal. I think Comrade Kekana put this quite nicely. It is a parking bay, in a sense it is not even a concrete category. Maybe we should change it to say it is a parking bay, which allows us to have further information so that we are able to classify whether that is a contentious or non-contentious issue.

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Chairperson Any problem with that proposal? There are no problems? Alright. Mr Dyani?

Mr Dyani According to the explanation Comrade Chair, of Mr Mtshali, I think we don't even need a proposal, because we are covered by that resolution, that is residing. It gives us liberty to do what we want to do now. We don't need a further proposal.

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Chairperson Thank you. So it is agreed we have the third category, whether we call it a parking bay or call it by another name,

is it okay?

Mr Marais A point of order Chairperson, ...

Chairperson Are you descending, right.

Mr Marais ... I have been trying for some ten minutes now to get your attention.

Chairperson I am sorry, I am very sorry, but that is the case.

Mr Marais I have been in the parking bay.

Chairperson I have been in the parking bay.

(Laughter).

Mr Marais May I suggest, I would agree to the suggestion on the, with 10
the proviso that we specify why it is we have problems with
that particular provision. In other words if we are going to
put "proportional representation" item F in the "parking
bay", we say, we would draw the attention of the CC to
Theme Committee 3, Block 5 or which ever it is, so that we
don't just push things off without stating a reason why this
is being done, as suggesting a way forward for that. There
is no point in just creating categories and putting items in
those categories, without saying why it is we are having
difficulties with them. 20

Chairperson Thank you very much. I hope the reasons will be given
each time the category is to be pushed into that. Can we,

for the point of procedure, can we now, having agreed in principle on the third category, whether we call it a "parking bay" or we call it "half way station" or whatever one calls it. Can we now go to each item, we have brainstormed nicely, can we now go to item by item of non-contentious, so that we have at least a process going forward and certain things approved, or whether a tentative approach being approved. Ms Seaton are you having a point of order?

Ms Seaton

Yes, please. Chairman, I don't know that we have all agreed with that. Mr Chairman, we still have a problem. If we are going to look at another category or another way of looking at this thing, the IFP still believes that its submission should be forwarded in full. If there is to be another way around it, then Mr Chairman, I believe that we should have an opportunity to go back and discuss this amongst ourselves and actually make suggestions on how and why, and where, but I think we still have a problem. And you know the fact that you are now talking about a "parking bay" does not alleviate the problem which the IFP sits with right now.

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Chairperson

Thank you very much. I think it is noted. Mr Lekgoro?

Mr Lekgoro

Yes, Mr Chairman, let me first start by protesting that I think

you should exercise your responsibility, and attend to all people raising their hands. I just wanted to ask a procedural point earlier on, but you couldn't attend to me. The issue raised by the IFP, I think we should take in merits a discussion, because I do not understand whether the IFP is saying on the issues that they have raised for Block 1, they want them taken originally as they are to the CA, or they are raising a principle here that all other issues that they are going to raise today and in the future, should not be tampered with and taken to the CA. If that is the position, I think that is a problematic position, because then it renders the work of Theme Committee 1 useless. I do not think the exercise that we have engaged ourselves in is in any way an negotiation exercise. But I think it is purely an exercise of processing the submissions that come from different parties. I do not think the CC will take the Theme Committee serious if we present all you know raw submissions from different committees. What they want us to if I understood is to, to make up from our submissions if there are opinions that we can put together, if there are points on which we agree, points on which we disagree and we must say where we disagree so as to enable them to

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negotiate areas of disagreement. Thank you.

Chairperson Thank you very much. My apology for having not seen you when raising your hand. I note your objection. Mr Chikane? Dr Mulder I am noting. I hope I am not looking one side, as you say, it seems this group is complaining and this one is complaining, I don't know who is actually getting the advantage.

Mr Chikane Yes, Comrade, I am not complaining certainly.

Chairperson Alright thank you.

Mr Chikane But I think I just want to endorse the position that has been put by Mr Lekgoro. We must as a group, the idea is that we must be able to synthesise ideas, you know, in terms of Theme Committee work so that when we take them to you know a broader Constitutional Committee, we know that they make sense. We have been able to discuss them, we understand what we are saying, you know, and on those basis that there is no way that we can take things as they are, because it means that we will take issues by, of just as many parties are involved in the whole process in Theme Committee 1, and I don't think that would be quite a useful exercise. My understanding of "parking bay" as it is called, is that if there as an issue for instance that we are unable

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to ... we realise we know very little of, or we cannot be able to reach an agreement, on the basis of lack of information, issues that warrant research, then we refer that issue to experts, then they help us with that particular research, and then we are able to deal with it. It is not a scrap yard, it is not what, we are not establishing a scrap yard to throw out what we cannot resolve. We are, I think, in a lot of ways given this particular responsibility to try to assist the whole process of Constitution, Constitutional Assembly by being able to come out with a wealth of thought out ideas, streamlined ideas that we will be able to whilst, married with other, I mean wise brought together with submissions of other Theme Committees, and we will be able to have a clear understandable process. Thank you.

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Chairperson

Thank you very much. May I appeal to members, I understand all the objections raised, but here we are having a programme which is before us, or a report which is before us and the Technical Committee or Sub-Committee will not know whether we agree with their formulation in A, B, C, and it is important for us to go to such details and see whether we agree with that formulation. I can see the philosophical discussion we are having, but we need to go

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deep into the specifics and say that we agree there, or we don't agree there so that they know what to do next. But I will allow the last person on general comment, Dr Mulder. From there then we go to the specifics.

Dr Mulder

Thank you, Sir. Thank you Mr Chairman. It is my first contribution, that I did not make it difficult for you up to now. I don't think the problem will be that we won't be able to go on without resolving Inkatha's problem that is how I, I see it at this moment on the detail of this. Now I understand their problem in a sense that I experienced it in a certain sense yesterday when we had the synopsis, which must go to the Technical Committee and I was not satisfied with the way in which the synopsis was drafted. The solution at that stage was that I said please can we go back also to the original document from the Freedom Front, and let that go to the Technical Committee and from there, the final work will come. Now I think the only way around this problem, and I don't know if it is acceptable to Inkatha for example, is that for example the submissions from the public, we can make a synopsis of whatever, that is the easier part. But that submissions from the parties then can be attached, or must be attached, and if necessary to make a decision on

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that, and say this is the report, but it is attached to it, the different, it is 6 reports then from the different parties and let it go with them to the CC, because to be honest with you at the end of day all that I want to make sure is, that my representative on the CC is able to debate my issue there, and if necessary and there is some problem on whatever was here summarised, he can go back to the original and say we agreed to this democracy or whatever because we understood this or that. I can't see another way around, there is no way around it unless we do it that way.

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Chairperson

Thank you Mr Mulder. Good. Is there any problem with the proposal by Mr Mulder? If there is no problem, then if that is accepted, in other words the original submission will still reach the CC and even the CA, over and above what is contained, if I understood Dr Mulder's proposal, and that is acceptable, you say? Mr Kekana, I am coming to you Mr Mtshali.

Dr Kekana

I think it is acceptable, but I don't know why we should actually re-invent the wheel, because that is what was written there. All the submission that were made originally, all of them have gone to the CC, not only here. The management has got all our submissions, that is why they

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managed to come up with this synopsis and I don't think there is any need to debate that issue. Like I am saying, those reports are there. What we are doing, we are doing the task that is allocated to us by, as per the resolution of the CA, and all those other reports have gone anyway, so I don't see us debating that issue. It is not really necessary. I think we should proceed and go according to, to the guidelines that was suggested earlier on.

Chairperson

Thank you very much Mr Kekana. Mr Mtshali still wants to get in. That's the last person, please. Ladies and gentlemen, allow me to exercise my powers there so that we go to details. Thank you very much.

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Mr Mtshali

Thank you Chairperson. I have one problem with annexures to a report to the CC. My problem is the status of those annexures, because what is important here which has been discussed is the report itself. Now if there is a problem in granting our request, which is a legitimate request, there was a suggestion made here by my colleague that could we be allowed to go back to our party on this matter and if need be, come back with the breakdown of issues as indicated in our submission. And I believe that will carry the process forward.

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Chairperson

Thank you very much. I think, I don't believe there is any problem in somebody going in depth and coming with a document. But then we should proceed and guide to the Sub-Committee as to how should they, whether they agree with the formulation here or not, but I think there is nobody who is overruling the request of Inkatha of having their submission going as it is to all the higher structures. I don't think there is anybody who is in the way, and even of going to make a breakdown after consulting their Principles, I don't think there is anybody who is opposed to that, but that does not prevent the question of looking at the report, of the issues which are already before us and put by the Sub-Committee, where all the parties are represented. Should I interpret it that way, Dr Nzimande?

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Dr Nzimande

Chairperson, I don't want to delay but I am uneasy about this, and the reason why I am uneasy is that it raises, this thing raises the problem of what is the point of the whole exercise if we cannot process. Why are we submitting, or are we making submissions, if in those submissions we are not going to extract key areas where, which we regard as non-contentious and also areas that are contentious. That is why that I would have thought that going point by point,

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because also I am uneasy to go by point if the IFP feels that it is a little bit of a waste of time, they don't agree with that particular process. What I was trying to plead is that if we are to go, let us make sure that we are all on board in terms of that, because there is no way that if we are trying to identify 9 contentious issues, you can incorporate as is all what the parties were saying, and that what you do is list those under contentious issues and the details of that will be given in the annexures, just like the details of the non-contentious points are given in the annexures. That is why I think that I am uneasy if we proceed and if the IFP feels that it is like a waste of time for them to actually go through that. I am not saying we should stop and delay the process unnecessarily but, I just want to plead maybe with the IFP that there is nothing that is going to stop the details of their argument going through, but it is important that we guide the CC so that the CC does not start afresh. Because the actual implication of the IFP's argument is that the CC will start from scratch. Why should the CC start from scratch if for instance all parties are agreed, even without the detailed motivation. That the Constitution should be the supreme law of the land, why should the CC start debating that

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again?

Chairperson Thank you. Perhaps let us look at this point before then we pass it. I would appear as if it is one of contention. Ms Pikoli?

Ms Majola-Pikoli Comrade Chair, may I make a proposal in the spirit of trying to move the work of the Theme Committee forward, as to whether the IFP would consider it relevant for them to, for this gathering to either take a 10 minutes break or 15 minutes break if they think they are able to consult for that matter, and are able to come back to this forum and then we continue with our work or our understanding is that they need not today to go back to their party and come back maybe not today, by way of saying which way do we go in terms of participation.

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Chairperson Mr Marais?

Mr Marais I must say I don't think any of us will be completely happy in the end with the way the contentious and non-contentious points are drafted here. But while I am quite prepared from my side and from the party's side to support the general trend of this document, is that I believe that the fact that we endorse this document, does not mean that we now forfeit our right or the right of any of my party

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members, or the right of any member of another party to go into the negotiations in the Constitutional Committee and argue all the points that we have in any case made. So I think that should cover the IFP's position also. We, we agree for the sake of facilitating the process on this, on more or less on the draft that we have before us, which I believe we are going to, we have to consider a few minor amendments, but then it does not take away our right to argue any matter that we have brought by means of our submissions before this meeting.

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Chairperson

Thank you. Perhaps I wonder if we can go back to Mr Mtshali and hear what his views are in the light of some inputs or perhaps, inputs from the other members who have tried to solve the problem in one or other way. Mr Mtshali? Or anybody from the IFP. I am sorry to specify.

Mr Mtshali

Chairperson, we made a suggestion here in order to carry the process forward, that we go back to our party and request the party to list issues from the document as submitted. This was a request which was aimed at carrying the process forward. Thank you.

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Chairperson

What does the meeting say? Yes, Inkatha says it wants to go back to the principle and have some certain issues

listed. What do we say? Do we proceed with the consideration of the report, or do we adjourn the meeting and wait for that, which is which? Mr Macozoma?

Mr Macozoma

Mr Chairman, I would suggest that we allow the IFP to go and consult their Principles. But, however, I am not too sure I understand what Mr Mtshali means by "lists", because I want to be sure what exactly will be done by the IFP and when it comes back, so that we are able to process. Because I think that we probably would lose the rest of this day, but I assume that we would get a report from the IFP as soonest even given the circumstances that we operate under. But I would like just to be clarified what "list" means. What exactly, is it going to be a distillation of the submission or what exactly will it be?

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Chairperson

Thank you very much. Is there any response to that enquiry?

Mr Mtshali

Chairperson, what we intend doing, is to indicate the areas in terms of issues, how we view them, as against the document which is a framework document, because we have a problem with the framework document as it stands, on its identification of contentious and non-contentious issues. This is why we are requesting that we go back.

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Chairperson Dr Nzimande?

Dr Nzimande Just Chairperson, I think it might help us maybe as a follow up to, to Macozoma's question, that perhaps the IFP could indicate by way of example where they think that they have serious problems in terms of these points so that we are able to move forward and we understand exactly. And what is it that would stop us taking Mr Gumede's suggestion, and going point by point and perhaps indicating at each point that this point does not incorporate their view, or they don't think that is a contentious issue, or they don't think that it is a non-contentious point, so that we are specific. To be given an example, so that we are not in a situation where we, we start believing in rumours as it was said the other day, that we don't start believing in rumours too, so that also the IFP doesn't appear as if it is wanting to stall the process, which I am sure that it does not want to stall the process.

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Chairperson Thank you. I have noted you Mr Gumede. Seemingly Dr Nzimande was requesting a response from Inkatha, if there is any. If there is non then I will allow you Mr Gumede. Any response from Inkatha? Well in the absence of that then Mr Gumede, could you, you could make your input then.

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Mr Gumede Firstly to try and assist if possible the IFP, where perhaps they are in doubt, say because of an amendment, they think that the issue that they had agreed as contentious is no longer contentious, I think constructively it would be better to reclassify it as contentious or perhaps put it at a "parking bay". Secondly, I would like to know what the time limit of the, of their consultation is. Is it going to be within today, or perhaps are they going to come next month, or perhaps are they going to wait for conference and so forth. So I think it is important that any request for consultation should come together with the time for coming back, because otherwise we may find ourselves waiting for a month. And thirdly, the issue of isolating the paragraph per paragraph, is to clarify our understandings. For instance C to me, does not give Unions the right to be formed or to be joined. So now if we look at it as C and we discuss it as C, are they satisfied whether it includes that or not. Thank you.

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Chairperson Mr Mtshali?

Mr Mtshali Thank you Chairperson. On the time factor we request that we come back next Monday.

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Chairperson Mr Kekana?

Mr Kekana

I think Comrade Chair, frankly speaking the day is lost, when we were just about to you know, when we were putting our finger in the pudding about to eat this thing and whatever, I think we are now being told we cannot do that, and I think it is really disappointing that it, after taking decisions that today is going to be the day when we go through the actual processing, there is a very serious objection from the IFP and so on, and I think I would like to go back to their submission, their total submission. There is a number 5 on contentious issues, there is an IFP position on this question, the question that we are debating now, which appears to be contradicting this latest position that they are putting, and if one could read from there, and unless that has changed, if their position has changed, because there appears to be no need for us to stall this process simply because we want to consult our Principles and so on. Because the process does allow for review at a later stage at the highest level and so on and one is a bit disturbed by this stalling by the IFP, because I think it is stalling and I am speaking frankly here that, that is what is exactly happening and I think there is a need for us to continue with this process and not, not wait for another day.

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Chairperson

Mr Lekgoro?

Mr Lekgoro

Mr Chairperson, I am particularly worried. I think we, we are setting an incorrect precedence. I agree with Mack that I don't think there is enough ground to say we should postpone what we are doing today, and in all earnest when I listen to the IFP it is either there are points with which they do not agree under the title "non-contentious points" and I would think if we, it is a preferable situation that the IFP should say we do not agree with point A for the following reasons, and the meeting takes a discussion there. And if we can't meet one another on that one then we know that it is probably classified under a wrong title. You see, and we seek to reclassify the point. I don't think really going back to their party when they come back they shall have assisted us in any way. I think the basic issue is that there is a difference of opinion on what is tabulated here, and that is what the meeting should be discussing, I think.

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Chairperson

I am coming to you. Dr Nzimande?

Dr Nzimande

Chairperson, I don't know, my question has not been answered as yet, which is along the lines of what Mr Lekgoro is saying. Because I think that what I had asked is what are the specific points where the IFP has a problem.

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Maybe all these what you call non-contentious points from the point of view of the IFP, are contentious points. Let us hear that. On a point by point basis, because otherwise if we don't do that it does not look good at all. It does look like stalling on the side of the IFP. Particularly because we have agreed on this process, right up until yesterday, as to what exactly we are going to do. And then there was participation, there was the Sub-Committee which actually produced this and now we are told this is not okay, but we are not given the reason as to where it is not alright. I think that in the interests of writing this Constitution and in the national interest, we do need to know where the problem is otherwise we cannot just delay just because a party says well we are not happy about this, but without specifying where the unhappiness is. We have a duty and a responsibility here to make sure that we are not inflexible, we are flexible and we have been trying all along in fact, we are backward as this Theme Committee precisely because we have been trying to accommodate every party and there is no, at no point have we not tried to do that. But right at the crunch we are then given an unhappiness, but which is not justified and as I am saying the question has not been

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answered. Secondly I do have a problem with the fact that it would be Monday. For instance, tomorrow, if I am not mistaken we have got party caucuses which are precisely aimed at doing this, and also if the IFP wants to assist us they can try and do that consultation even earlier than the party caucuses. And it is really worrying particular because also there was a statement that came from the IFP that we are rushing the process. Now it makes us to feel really uneasy. I think that it is important that we do hear exactly where the problem is, where the IFP feels that its position is being misrepresented, and the process allows that where there is no agreement the issue is a contentious issue. You know the process is so wide open that you can't say we are going back. If for the IFP all these are contentious issues we will simply give the report and say this Theme Committee does not have areas that are non-contentious. All of them are contentious, but at least we take the process forward. Thank you.

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Chairperson Thank you very much. I saw Ms Routledge's hand first, and then ... now we will have Ms Seaton.

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Ms Routledge Thank you very much, Mr Chairman. The IFP is certainly not stalling, in fact let me just remind the Theme Committee

that the only party that had its submissions in on time was the IFP, and that we gave, that we assisted this Theme Committee assisted other parties by a full week to get their submissions in. Mr Chairman, the IFP certainly is not trying to stall anything. What we are concerned about though is that we are trying to rush the drafting with all due respect, as was said yesterday the Sub-Committee and the Technical Committee was given a matter of a few hours to try and draft the submissions that people could not get done in the time that was allocated to them. What we are now asking is for a little bit of time to go back and to try and assist the process, instead of us sitting here and having a long debate actually still getting nowhere today, asking that we be given time to go back and to look at the issues and to actually identify, and to show you why, we are in contention with a specific thing. That is all we are asking. We are not asking to delay the process unnecessarily at all.

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Chairperson

Mr Marais?

Mr Marais

May I ask a question to the members representing the IFP. Would it be completely impossible to consult overnight? From now on, the rest of the afternoon, the evening to the night, and to come back tomorrow morning, because if that

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would

END OF TAPE 3

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Mr Marais we would like to support them and to give them time to consult, but I must also say waiting until Monday, there is not even a meeting scheduled for Monday, so that will mean that we will have to meet again to discuss this issue on Tuesday only. So if they could from their side also be accommodating and try to help us, I think it would do a lot to resolve this problem.

Chairperson Ms Routledge?

Ms Routledge I would like up we follow on what Dr Nzimande has proposed, because I must say that I am still unclear what are the areas where the IFP has problems, and of course after we have gone through that process, the IFP can have time to go an consult, but let us be clear about what are those areas under those points where they have a problem., and I just want to add that having participated in the Sub-Committee, I am surprised actually to hear now at this moment that IFP have problems even with the structure when, in fact, the Sub-Committee agreed on the structure of saying that we are going to have an area of contention and an area of agreement, and further in fact to be fair to Dr Mulder, he asked yesterday to consult with his Principles,

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and we all agreed that he did have that opportunity to consult overnight. I did not hear that any other party required more than just last night to consult, and we said that each and every party that needed to consult last night must do so, and I think it would be fair to this meeting if any party feels that they have not had time to indicate to the administration earlier in the day, because we all come here, we put away a lot of other responsibilities, hoping that we are going to be moving forward. I have a problem with the request for Monday. We already here in this meeting agreed that by the end of this week our report from this Theme Committee must go through. We are behind. The other Theme Committees have sent their reports. I am not clear what is the problem. Let us hear from the IFP point by point where they have a problem. We have agreed that their submission can also go through to support whatever at the CC level and they have representatives at level as well, who can speak to their submissions.

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Chairperson Thank you, Ms Routledge. Mr Macozoma?

Mr Macozoma Chair, am I getting concerned by what I am hearing from Ms Seaton because now it seems that the weight of the consideration from the IFP is the speed with which this

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proceedings are going, rather than the issues that they are differing with and that makes me to be sympathetic to the view that has been expressed by the last speaker as well, that if that is the case it would also be helpful for us to begin thinking about what the objections of the IFP are, so that we can begin to think how we can begin to accommodate those and I would also align myself with the National Party on Monday. I think if tomorrow there are even party caucuses there is no reason why these issues cannot be clarified overnight or alternatively during those, that period.

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And I think it does not all go well for this committee when what seems to come out is that the objections are to the speed with which we are proceeding, when in fact we are far behind in the programme and therefore I think if the IFP could assist us by saying this issue, and that issue and that issue is inadequately represented or misrepresented, or excluded or, once they have consulted we can also be thinking how we can accommodate them so that we are aware of what the areas of contention really are from the IFP.

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Chairperson Thank you Mr Macozoma. Mr Venter? I am going to you.

Mr Venter Mr Chairman, I think that we have consensus on one thing,

and that is we must accept each others' bona fides within this meeting, and I think Mr Marais' request or proposal as far as tomorrow are concerned, I think we must give the IFP a chance to respond to that but I also think we mustn't put pressure on the IFP to tell us just now here, exactly here what they are, what they have problems with because there may be some points with which some of the other parties may also have problems, but if they have problems, sir, that is something that they must discuss within that party, and I think we must accept their bona fides in this sense and ask them to give their co-operation to us in seeing that it is possible that we go further with the process tomorrow morning.

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Chairperson

I think Mr Momberg is the next person.

Mr Momberg

This is just ... this is just administratively. Are we meeting tomorrow morning or tomorrow afternoon, because notice has been given the party caucus is tomorrow morning. If we are not meeting tomorrow meeting are we doing it tomorrow afternoon, it would give, in all respect, it could give our colleagues of the IFP time to meet tonight, and tomorrow morning if there is caucus they can come back tomorrow afternoon. Won't that assist them?

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Chairperson Thank you. Let us give the IFP chance to air their views.

Mr Mtshali Chairperson, it has never been our intention to stall the process in any way. We are conscious of our responsibility and this is why we say that this document does not accurately present our position. The long and short of it, is that the entire presentation is contentious as far as we are concerned. And secondly, the presentation here lacks essential detail which is fundamental to the character of a democratic state. Now to come back to the question of time. We will endeavour to consult tomorrow, so that, I haven't yet the schedule where there is any meeting tomorrow afternoon, I don't know or whether it is Friday morning.

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Chairperson Thank you. What is the final ruling on this matter? Could we get something towards solving the problem.

Mr Marais If my diary is not incorrect, then we have a meeting scheduled for tomorrow morning at nine o'clock, but I think most of us will have the afternoon free and what I would then suggest is that we postpone tomorrow's meeting to tomorrow afternoon, in order to give the IFP sufficient time to consult.

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Chairperson Let us hear the IFP.

Ms Seaton Mr Chairman, the only problem is according to the programme that is one of our hassles, is that the meeting that was scheduled as was said for eight thirty tomorrow morning, now the party caucuses are being held in the morning, we have a situation where this room and other rooms are in fact taken up by other Theme Committees, so we would either have to find another venue.

Chairperson I don't just understand where is there another venue for this meeting. I mean for the IFP's caucus.

Mr Marais Theme Committee 5 is sitting here tomorrow afternoon. 10

Chairperson I don't think there is much problem. The administration should deal with that. They will see where they put us. Any other problem? Mr Kekana?

Mr Kekana Yes, I think having listened to the IFP while it is still not yet sure, but I think we will let the process go forward, but I think I would like to refer to members here all of them to the IFP's submission page 3 of this thick document, where 4 and 5 in that thing, I think members will have time overnight to go through it. Where I think the objection is well summarised and so on, why ... their approach to Theme Committees and so on and I think that says the central objection of the IFP, and in a way, tomorrow when we get 20

into the meeting I think maybe they shall have amended to clarified their positions, in a clearer way. But I think what we need to say is that tomorrow we are going ahead with this forum, as it stands and so on, and then the IFP will be able to say this "A" we don't agree with, "B" we don't agree with and so on, but I think it is useful to conclude with those words that we tomorrow are going ahead with the process, but I think their objections are summarised by point 5 there, if you can refer to that.

Chairperson

Thank you let us get it clear. Will the IFP be in a position tomorrow, that we continue with the process or will there be any other further problems?

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Mr Mtshali

Chairperson, I have already said so, that there is a party caucus in the morning, so after the party caucus then there is no reason why we can't come back here.

Chairperson

So should we arrange the meeting then for two o'clock tomorrow? It is agreed? Right. Hopefully then every member will make sure that at two o'clock the administration, is there, I understand even this venue will be taken by other, will you arrange that and issue the necessary notices? Thank you very much. Yes, we have your apology. Thank you very much for co-operating,

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although others are going out before I declare the meeting closed. I am still, I am still the Chairman of the meeting. Thank you very much for co-operating even if the issues were difficult to resolve, but tomorrow we will come with new ideas being refreshed, being mandated and everything there at your disposal. Thank you very much.

A D J O U R N M E N T

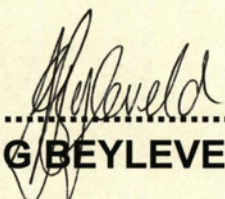
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THEME COMMITTEE 1 MEETING
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