

2/4/2/1/10/17

TC. 2

26/6/95

TAPE 5

Theme Committee 2 - 26 JUNE 1995

Chairperson            Professor Raath.

Prof. Raath            Mr Chairman, may I start my answer with the last remark about the mechanisms. It has become clear to me during the discussions that over the last couple of years we have had a lot of references to liberal theory, liberal views on human rights, liberty in general and the fact that liberty should be one of the highest principles in the new constitutional order. It has also become clear to me that with liberalism is meant individual human rights. A very conservative and a very positivistic approach comes out in addressing the problem of collective rights and of self-determination and even of secession. This is more than a paradox. I think this is a fundamental problem in the thinking of many people in our day and this is an inconsistency which, I think, should be addressed in order to solve the complex problems we are dealing with here. Therefore I would like to say that one should not start with an approach of which mechanisms are necessary to solve this or that particular feeling of injustice or insecurity or lack of freedom. One should apply liberal theory in all its facets, one should have a libertarian approach not only to human rights regarding the individual but to the whole political order. One should also interpret the whole problem and question of secession and self-determination and all its facets from a consistent liberal perspective because, I think, Mr Chairman, that there are still too many fascist approaches to the state inherent even in proponents of liberalism and their views on human rights. I think that is

something which inhibits us from really addressing the problem in all its facets. Proceeding from that point, let me say then that accommodating the legitimate expectations of ethnic groups and of cultural communities means addressing the problem in a realistic manner and as I have said in my paper, I don't think that full and total political freedom for the Afrikaner people can be accomplished overnight. But one should make the state something which prohibits political development up to the point of full political autonomy in the future. There is an open-ended formulation leaving the freedom of choice in the hands of the ethnic groups concerned. This also includes the Afrikaner people, starting from a federal basis. I think that a Constitution on a federal basis could be a useful starting point, of course provided the other aspects I mention are also accommodated, namely an open-ended formulation which could lead to full political autonomy also of the Afrikaner people and, of course, also provided that basic human rights and freedoms are not infringed. Now, Mr Chairman, it is not for me to go into all sorts of models which one could devise in order to accomplish these principles. I think we are talking here about the principles and accepting the principles, and one of the principles which I emphasise is the fact that such a developing, negotiated Volkstaat unit should not infringe upon the human rights of peoples or individuals and this is something which should be negotiated and implemented in such a manner that not one of the basic human rights enunciated in Chapter 3 of the Interim Constitution should be infringed. But this also needs a political solution and I don't want to go into that, this is something for the political role-players and which must be negotiated in such a manner that all these rights are

harmonised in such a way that self-determination could be accomplished and basic human rights be upheld.

Chairperson Any of the other persons want to react? No? Senator Groenewald.

Sen. Groenewald Chairperson, just two very brief points. Many speakers have referred to so-called historical context and the examples that were mentioned were relayed in every particular case by saying: Let's look at the historical context. I think we should also apply that to South Africa and from the first two basic questions. Why take the boundaries of 1910 as the accepted colonial boundaries? Why 1910? Why not apply the 1910 criteria to other countries in Africa and so on? That's my first question. My second question is: Are we in the Constitutional Assembly, sitting here today, are we going to deny the historical context through which the Afrikaner developed into what he is today. Are we going to deny the fact that here we have a people, a recognisable people with a history of its own, with a culture of its own, with a language of its own and even a religion of its own? And the fact that this particular people that I am referring to has for nearly 2 centuries been involved in the struggle for geographic self-determination and even fought two wars of independence against a colonial power like Britain. In fact that those peoples in two separate countries did have international recognition. So if we look purely at historical questions, are we going to deny this aspect in the Afrikaners' striving for a degree of territorial self-determination. I think let's just look at these two aspects and let's be fair.

Chairperson

Who'll react to that? Professor Dugard?

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Could I ask questions about the procedure now? At what point are you going to allow a general discussion in terms of the panel discussion because at the moment questions are being put and there are immediate responses from our panel, but there might be issues which we want to raise which are more general, which would not necessarily relate to a particular panellist in terms of questions. So how are you envisaging our next half an hour or so?

Chairperson

Where I have indicated, the gentlemen that gave their names only would ask questions. Mr Ebrahim, for instance, did not ask a question, he participated in the discussion, so we can mix them up: questions and comments at the same time. I have got a few names here, I'll put yours on too, Dr ??? . Alright, Professor Dugard?

Prof. Dugard

Mr Chairman, Senator Groenewald raised the question about the 1910 borders, he asked: why 1910? I think one just has to accept the realities of international life here that the Union of South Africa, as we know, came into existence in 1910 and it was the Union of South Africa then as a colony that later became an independent state so the international community, through the United Nations, tended to see South Africa as existing within its 1910 borders in the same way as other states in Africa were (coughing) ...and became a particular territorial entity at a particular point in time. South Africa became such an entity in 1910, at an earlier stage than other states, but that is a historical and political fact of life and I really don't think that one will achieve much by trying to question it because we have seen

this international community throughout the apartheid years emphasise this as the starting point for the South African territorial unit. Obviously one can question it on historical grounds, but I think when it comes to political realities, one has to accept that.

Chairperson

Carriem???

Mr Carriem

Mr Chairperson, I just want to respond to the earlier, the first two speakers. You see, persistent in the discussion is that somehow throughout the world people are demanding autonomy, self-determination and so on, and nation states are breaking up. While that is true, that is only one aspect of the reality. There is also another aspect which is that with internationalisation, globalisation and increasing economic and so on, interdependence, the European Union moving towards a unity, the Southern African states emerging the way they are in terms of co-operation, there is also another reality, which is an increasingly interdependent world. So, I think that, globally, we have got a contradictory process unfolding. A lot of people are demanding autonomy but on the other hand we are becoming an increasingly interdependent world and in that context you cannot just focus on the one side of the spectrum if you like, that is the demand for self-autonomy, without recognising the other side of the spectrum if you like, which is bringing countries and peoples together the way that it is happening. In that context, I notice that speakers say that internationally economic viability is not a criteria, but ??? whether countries have self-determination or not. And I would like to suggest actually that economic viability is indeed an important consideration. To go back to

a point Dr Maluwa is making, I think the Secretary General of the UN observed recently that if the process of the unfolding at the moment continues, we might well have 400 economically unviable countries by the end of this century and that's not going to work. If you apply this to South Africa also, in respect of the notion of a Volkstaat, whether a culture determines whether one have a Volkstaat or not, are two key issues: one is territory and two is also economic viability. You cannot talk about the abstract aspect of cultural determination without looking at those very concrete things: the question of economic viability and territory in South Africa. I think the issue really is to find... I must go back to the point that Professor Ranchod raised and Dr Maluwa raised. You see what we really... I don't think anybody questions that in this country we are multiracial and multi-ethnic and that in this country there are many groups, ethnic particularly, which want some sort of cultural, language, religious autonomy of sorts, the expression that they feel should be allowed. I don't think anybody's questioning that. It is how you do that, that is what has to be debated. And I am saying that the answer lies somewhere between the notion of a Volkstaat on the one hand and the notion of a modalistic input of nation states on the other and it's there that we need to look. And it seems to me that ultimately the space that you allow communities to find ethnic, religious, cultural expression is at the level of local government, is at the local level. And that these expressions of cultural, ethnic identity and so on must be allowed in a way that fosters a broader South African national identity and the two are reconciled, that people have multiple identities. And the challenge before us is to find the space to provide for the expression of this

multiple identity. Thank you.

Chairperson

Professor Venter?

Prof. Venter

Mr Chairman, can I just say that I think it presented an overview of the factual situation in the world. I am not a proponent of the Volkstaat myself and may I also point out that in a certain sense I find myself in a somewhat ironic position today. I agree with the previous speaker in the sense that we are moving into a post-modern world, where the old idea of a nation state and nation building is really passé as well. It's the old British/Anglo-Saxon type of colonialist idea that you can simply take a piece of nation and say: these are the Ethiopians and these are the ... and so on. In the post-modern world people have multiple international identities. I am a political scientist; sometimes I have much more empathy with what political scientists do, say, in the Soviet Union or in Bangladesh, for instance. Of course, we have multiple identities. If you look at today's Newsweek, you will see there is an article "Does the state matter?" Do governments matter? Because the world economy is moving into these big blocs, the European Union, Mafda???, the Pacific Rim states, and so on. So we are really battling in this country at the moment with how to reconcile our local identity, being an Afrikaner, or being a member a member of the NG Church or being a political scientist or being a person from Gauteng and reconciling that with other identities. Of course, one of the facts of life is that we have nation states, or let's put it this way: that we have states in the world that organise our lives and we are grappling with that. What I pointed out in my paper is what sort of argument the Volkstaaters could use. I am not



saying the arguments are without flaws.

Chairperson

Mr ???

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Mr Chairperson, ??????????????????

...the dichotomy of the economic situation in South Africa. ??? is the Volkstaat only. The nation South Africa. ??? the of the Volkstaat race during apartheid era were the dominant system of self-determination state because the homelands of the Shangaan, the homelands of the Vendas, the homelands of the Zulus etc. etc. and we are ??? the same thing if we allow the situation, being that the Afrikaners can have their Volkstaat ??? and then the Vendas and the Tswanas etc. etc. and then we are back to square one, where autonomy should be united to ??? the new South Africa. Thank you.

Chairperson

Professor Raath?

Prof. Raath

Mr Chairman, may I respond by saying that we should be very careful in drawing parallels between the homeland policies and the possibility of evolutionary and negotiated secession because the homeland policy was more in the line of a policy of expulsion than it was of secession and we are talking about secession here and the possibility and not about expulsion. So, from a liberal point of view this means that if a cultural entity wishes to have full political autonomy, then it would not be in line with liberal theory to take that away from them, of course, if it is morally and otherwise acceptable. And I think that the norms of legitimacy have already been highlighted, so I needn't go into that, but I want to emphasise that the homeland policy

cannot be fitted into the whole idea of secession; it is something totally different.

Chairperson Mr Maluwa and then Mr Lebona.

Dr Maluwa I am just intrigued by Professor Raath's consistent references to liberalism and so on. Maybe I understand a slightly different meaning, I just want to say that we should be careful when we talk about the national democracy and striving to extrapolate all sorts of conclusions from that. Western Europe archetypal legal and democratic states: Spain has problems with the Basques, Slavs have these problems, and so on and so forth; a legal regime does not seem to have ??? yet, how are we sure that perhaps this undying adherence to international patriotism is the answer here? Just a request for clarification. Thank you.

Prof. Raath May I briefly say, Mr Chairman, that at the basis of all these arguments is the whole question of freedom of choice. If we say that freedom means that there are no other people deciding for you, then it also applies to this in a political sense, with the only difference that we have groups of people here – cultural groups as such – and if we are consistent about liberal democracies, then we should also apply that to the decisionmaking of groups, bigger and smaller ones, taking into recognition, however, the moral and the national tenability of creating separate states for such people, but that the whole question of self-determination is, or should function, on the same basis. Many international authors have come up with this over the last couple of years, have the same basis, namely freedom of choice, but then we should be explicit and also apply this

to the phenomenon of self-determination.

Chairperson

Mr ???

Mr ???

Thank you, Chair. I will programme a question on the reference made to the Zulu ethnic group as the majority group, especially to (coughing) spatial ??? because I am under the impression that this was the case during the apartheid era when the Xhosa's divided the Ciskei and Transkei. I am under the impression that they are the largest ethnic group. Why I am proving this because I am afraid that we might be working from a wrong premise, from an unreliable statistic, you know, and therefore create a pathology of bloated ethnic ego. So, I want to find out from social ??? here that even in the new dispensation, is that they still have as a fact that Zulus are the majority ethnic group. Of course, I am aware that we are outgrowing this kind of ethnic system, we are now the amabokaboka and the like, but for the fact of scientific papers...

Chairperson

Who will react to Professor ???

Prof. Dugard

I think I made the statement. I don't claim to be an expert on population figures, but my impression is that the Zulu ??? if one could use that term is still the largest and I speak as one who grew up in Ciskei/Transkei myself, so although my allegiances are with the Xhosa people, I think that the Zulus are still probably larger in terms of the intensive figures. I mentioned that simply to show that we cannot really talk in terms of a black community being the dominant majority when we have such a large nation, whether it is the largest group or not, which insists upon its

separate identity. So I think we have to see South Africa as a nation of peoples. We are all minorities to some extent. As I say, I don't claim to have a complete ???

Chairperson

Mr ???

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Mr Chairman, Professor Dugard said that in terms of international law, the cultural groups of South Africa should be regarded as minorities, and not as peoples and for that reason those minorities – cultural groups being minorities – have the right to what he called internal self-determination as opposed to external self-determination, which meant, I think, secession etcetera. Now, I have two questions to put to Professor Dugard. First of all, does he regard, for instance, a federal state for a cultural group within a federation, as a form of external or internal self-determination? And my second question is: Apart from that, if minorities have the right to what he called internal self-determination, does that mean that they have the right to, for instance, statutory councils for collective bargaining of their cultural interests?

Chairperson

Professor Dugard?

Prof. Dugard

Yes. Mr Chairman, this distinction between peoples and minorities in international law is a difficult one because, as I indicated, the same group may in one context, in the decolonisation context, be a people which is entitled to exercise the right to external self-determination, to become independent, to form its own state, whereas a people in another context within an existing independent state forming a minority, simply becomes a people that is entitled

to minority protection, to exercise internal self-determination. But, of course, that can take many forms. It can, as he rightly pointed out, take the form of a federation in which special provision is made for a particular minority or it could take the form of statutory council. That's a matter to be worked out internally in that particular state. The tradition of international law is simply that there is no right on the part of such a people, such a minority to secede from the greater entity unless that state is denied all participation in the body politics of the state, unless it is subjected to oppression of human rights violations. If that is not happening, it has to exercise its rights within the body politics and in the case of South Africa, it simply means that peoples must at this important stage, while the Constitutional Assembly is meeting, seek to achieve some recognition for the status that will be acceptable to all the other parties. So, international law does not dictate how that internal arrangement is to be made. It is for the people's minorities within the state to ensure that their rights are protected by that process of negotiation. And that is why we are here today.

Chairperson

Mrs Sethema.

Mrs Sethema

Thank you, Chairperson. My question is directed to Professor Raath. He mentioned earlier on in his presentation that Constitutional Principles 1 and 34 which deal with unitary state and the other one straightforward rights to self-determination are somehow contradictory of each other and I think we need to be guided by the Constitutional Principles in drafting the new Constitution. I just want to find out from the Professor, are these principles

reconcilable, and if so, how do you see reconciling them productively? We do have to be guided by this.

Prof. Raath

Mr Chairman, I think it is important to note that Constitutional Principle 34 was added later to the Constitution; it wasn't formulated at the same time as the other Constitutional Principles or even the other sections of the Constitution. So we have here as a result of the compromise, and I just refer to the agreements between the government and other political parties... the result was Principle 34. And to a certain extent – let me say to a large extent, Mr Chairman – there are difficulties in interpreting these two facets of the Constitution. Of course, this is what the paradox, which I did mention, is all about; in other words, to reconcile the principle of self-determination, may I add very widely formulated in principle 34, with that of the other sections of the Constitution. I think we must emphasise that this Principle 34, which I think is a sensible principle, should be supported by provisions in the body of the Constitution, as I have pointed out, which reflect first of all a federal system of government as point of departure for accommodating the political aspirations of ethnic groups. But then, of course, Principle 34 should be formulated in such a way that the relationship thereof, as I've said, with other Constitutional Principles, becomes clearer to the extent where there can be no uncertainty of the fact that the notion of self-determination also includes geographical autonomy, of which we have said a lot. But then the important thing is that such formulation should be complemented by provision in the Chapter of Human Rights and I think we are all sensitive to the fact that there should be a normative framework within which this full political

autonomy within a geographical entity could be accepted. For example, and let me emphasise this once more, prohibiting impairment of human rights, prohibiting violation of the territorial integrity of the country by monopolising the infrastructure, and presenting an unreasonable fragmentation of the country, etc. But then, of course, Mr Chairman, the third point was the escape clause which I proposed, which should be contained in the Chapter dealing with human rights, where under particular circumstances it may be necessary for forms of emergency secession because, and let me conclude with that, no government in this world is composed of angels only and what the future will hold not one of us can tell, and such a Constitution as the Final Constitution should be a document which is based on trust and in which all the segments of the South African population can trust. And I think that the principle of trust is severely corroded if we accept the principle of freedom of decision in individual instances and deny that to cultural groups and to the ethnic components making up the South African population.

Chairperson

There is a change in the programme. We are supposed adjourn now for lunch, but I've got four more colleagues who want to make comment or questions. Do we complete that and then adjourn for lunch? I hear no response.

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Thank you, Mr Chairman. Unfortunately I arrived late and I missed some of the inputs from the Professors etc. and some of the things I am going to raise will probably have been dealt with earlier, but nevertheless... I have no problem with the input of Professor James Kruger(???). I think I agree with the views he has expressed here. My only

difficulty with his input is that he refers ??? in passing to the Zulus here in South Africa as a nation. Now, I don't understand that really because my understanding of a nation, rightly or wrongly, is that of peoples living in their common territories, sharing the same common language, same economy – Professor Maluwa is agreeing me – and so ??? background, and that is my definition of a nation. Now that's why I say that I had a problem with that, referring to the Zulus as a nation in the context of South Africa. We are here trying to build a nation. We talk of nation-building. I can't explain, it is a difficult one to refer to. A population group, a national population group in South Africa as a nation, in exclusion of all other ethnic groups... My biggest problem is what Professor Raath said. We are just emerging from a very, very disastrous policy, the policy of separate development, which has proved a failure in South Africa. Professor Raath is a very strong advocate, proponent, of self-determination and probably secession later on after self-determination has been achieved. Part of this problem has already been raised by Mr Mtshali and it is that the African-speaking people in South Africa, we want to determine our own future, our own everything. Assuming that we were to be allowed, Mr Chairperson, where would we end? Would the Zulus be right in saying they want to determine their future in whatever territory they've decided. The Sotho-speaking, the Tswana, the Vendas, the English-speaking, the Greeks, Portuguese-speaking ??? South Africa. ??? in demanding such rights for themselves and so we have demarcated this area as an area of Portuguese-speaking people, we want to govern ourselves here. And the Afrikaans-speaking people are saying: Let's now choose. They want that area where they see the majority of



Afrikaans-speaking people are and there in Pietersburg, there in the Free State, all over the country, ??? the common country have left out those areas which could form part of the Volkstaat. Now my question is will these other ethnic groups be entitled also to do a similar thing as the Afrikaans Volkstaat people are doing? Where do we end? Will we not be breaking up this South Africa, which, as Professor Dugard has said, came about as a result of the agreement in 1910. That is what we are basing, that is our starting point, whether we like it or not, Mr Chairman. 1910 is our starting point, which has brought about the colonies, the four colonies of South Africa, into what was then the Union of South Africa. The Afrikaans-speaking people want to dress this all up and take us back to the separate development policy. Will the other ethnic groups in South Africa also be entitled to demand like they are demanding? Thank you.

Prof. Raath

Mr Chairman, it is going to be very difficult to answer the speaker because I don't know at which stage he came in because I don't want to go through the whole exercise again. May I just say that it is exactly this approach to nation-building and to the emphasis on unity and the unitary state which makes many people, and many peoples in South Africa, very sceptical about the future because this is not a libertarian approach to the rights and the freedoms of all the people and peoples in South Africa and that I want to emphasise. Secondly, Mr Chairman, there is – and in my presentation I did also emphasise this – no duty upon anyone to accept the responsibilities of showing and proving that such an ethnic group or groups want to determine themselves within a geographical boundary. I

must also say, Mr Chairman, that I advocated in my paper that open-ended approach, so that people could have the opportunity of realising their freedoms and their political destinies if they so wished as an evolutionary process. So this is not something which should or could be accomplished in any drastic way whatsoever and, of course, provided that the norms of legitimacy for self-determination are applied. This means, Mr Chairman, that the possibility should be left open for those ethnic groups who wish to determine themselves, provided, of course, the norms of legitimacy are present and all the other safeguards are adhered to. So I think we should be very careful in not limiting in any unacceptable way the presentation which I particularly have made this morning, and I tried to do so in a way which could be acceptable to proponents of the liberal theory of government of the state and of the freedoms of people.

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Chair, I think we are going to come back to the South African ??? over and over again and we are going to have a report on the Volkstaat Council so I don't want to talk about South Africa now, but there are certain general, philosophical and political concepts and approaches that have been put here, which I think need to be very closely interrogated. Professor Raath is perhaps only one-quarter correct when he talks about the liberal democratic approach which is freedom of choice. The question is: all of those choices are limited, there are no absolute rights of choice anywhere and therefore to extrapolate what he considers a liberal democratic thing, it is believing that a democracy... if your Constitution is based on it therefore ipso facto that is some kind of consequential right to self-determination, I

think is wrong. You can't make that logical conclusion from that basis because, as I said, the right to freedom of choice in itself has limitations, they are not absolutes in that sense. Sir, let me say this, that of one would discuss this anywhere else, sensitivity to the national question, I think, is critical. All of us have to be continuously sensitive to the national question because insensitivity will lead to a great deal of problems, but it seems to me that what's been happening here is that the discussion about the national question in general terms, in South Africa and elsewhere, has basically been around the question of culture and language, as if the class factor doesn't matter. Well, ??? Carriem earlier spoke, and quite rightly, about contradictory processes, but there is another process that has been going on for centuries: the formation of classes; class interests, which transcend narrow national or national and ethnic interests and therefore a general approach to this question can't just be limited to one or two factors, they have to have a broader outlook. And that raises the question that, of course, it is possible to share the same language and religion, but have different culture and traditional attributes. We can't start from an assumption that because you share the same language and religion, you necessarily share the same culture and tradition attributes. South Africa, I think, is a good example in the case of what we call the Coloured people. They by and large share the same language and religion with white Afrikaans-speaking people, or in Britain with the Scottish and Welsh where they share a similar language to the English and a similar religion, but who regard themselves as having certain different cultures and traditional attributes. So, I think that this approach that has come up here is to me too narrow and too one-sided and

not to quote everybody else, but, of course, as Marxist one can go back to the old debates between Bauer and Marx on some of these questions and he was very much concerned with culture ??? The other thing that we are missing here, was for example, ??? are also separated from fundamental economic factors. I don't believe you can talk about what happened in Congo at the time after the independence in 1960 and the secession of, the so-called secession, of Katanga without taking into account fundamental economic factors, fundamental economic factors that affect the interests of colonial powers who colonised the territories, and other colonial powers who had their eyes on the riches of the country. You can't separate them as if they were some kind of mythical Katangese demand for independence. If we even see the problem between Guinea and Guinea France(???) some years ago, it partly had to do with the fact as to whether or not oil was going to be found and shared by the two countries and what then became the interest of France with regard to that particular possibility of finding oil. Those political and international factors, some of which were alluded to, that's my ultimate that I would ask of Professor Raath. And I want to agree with what Dr Maluwa said and ??? said about Ethiopia and Eritrea. But there was an additional factor, that at the time of the Cold War an element in these two regimes was identified with the Soviet Union and the other socialist countries. There was no clear international demand for the independence of Eritrea under Haile Selassie because he was regarded as an ally of the west. In 1992 with all of these big things that we were talking about afterwards, the entry of Saudi Arabia into the conflict as supporting the Moslem nations had not to do with the Cold War, but there was some kind of notion

about the rights of people to be free and independent. And you can't really divorce these things because what I was arguing was that these political and international factors sometimes play an even more over-riding role in terms of determining whether or not certain people may or may not get their independence and therefore when we are using examples, when we say historically, what we mean is that when you are looking at each of these particular examples, and we must learn something from international examples, is that nevertheless it is incumbent upon us to be historical and to be concrete in examining this thing, not to throw them out. I get the feeling sometimes that our professors like... and also we were all academics at one point in our lives, it is nice, we read a lot of books and we throw things out to justify our case, but it is not going to help us to solve political problems. And I have felt a lot of international examples have just been thrown at us without saying that in considering each of them, we would need to take into account specific historical contexts in which they occurred, including if you want to try to find out why English became the language in the United States of America, the ??? of written English in Germany, just by chance I think of the "I" ??? English actually became the official language of the United States of America. So what I am really arguing for here is that when we come to this thing is that we need to take all of these factors into account in having a general understanding of this problem of self-determination. And lastly, let me say this: that if international conventions and declarations of human rights and others are to have meaning for us – and they must have meaning for us – is always to see them also in their generalised context.

(end of tape 5)

TAPE 6

Theme Committee 2 - 26 JUNE 1995

...come back to what Dr Maluwa said. And this is the question of human rights that somebody else's rights cannot be that circumspect that they will actually give ??? democratically human rights to somebody else so that even in this country, if you want to have a separation you would need to come back to that, that element is clear. And secondly, the question of colonial borders, and that's what I'm going to add, then, Mr Groenewald, it doesn't become ???, it doesn't become 1899-1902 for the Anglo Boer War. You might as well then go back to 1651 and try to work your way backwards and say: what would have happened to South Africa if Jan van Riebeeck actually hadn't set foot on South African soil? You can't do that. It is impossible, it is ridiculous. You'll never land up anywhere else, you've got to go from a given and in our case, the given has to be 1910, it cannot be anything else and I certainly accept your Orange Free State Republic's excuse that the Indians ???

Chairperson

Professor Raath?

Prof. Raath

Mr Chairman, there was a reference by the speaker to the philosophical position. There are two remarks about this. Let me say that I am quite in agreement with him that there are no absolute rights, but it's one thing recognising the right of self-determination, but limiting it in a realistic manner, but it's a different matter altogether like he has done, and that is denying the existence of such an ???, because this has been one of the major contributing factors to disruption and to violence in the international world,

which we have had over the last couple of years, keeping these national communities and ethnic groups nearly as – I say this with reference to these terms – so-called ideological constructions. And let me say, Mr Chairman, I think that General Groenewald was right by emphasising the existence of these phenomena as historical phenomena because if we do not treat them in a realistic manner, then we have the results which we have become accustomed to over the last couple of years. I would just say that in answer to the questions of the speaker, that it is evident that he approaches this whole matter of self-determination, from a philosophical point of view, in a very universalistic and absolutistic paradigm. Then we end with the sort of state which Plato and Aristotle were well-known for, namely no real human rights in practice, but the state, as the so-called mother or parent, taking decisions for each individual, but also for the groups in such a state. And I must say, Mr Chairman, that from any libertarian point of view the Aristotelean and Platonic approach to state and to state-making is totally unacceptable. Thank you.

Chairperson

Dr Mulder?

Dr Mulder

Thank you, Chairperson. I would like to start off by just making one or two observations. I think the first point is that we must not forget to take into consideration, I don't think we are discussing the concept of servitory nations today because of an interesting constitutional law concept. That's not why we are discussing it and I don't think that, that was on the agenda. I think we are discussing it because of the practical realities of South Africa. The fact is that it was put on the agenda of the constitution-writing

process because of certain realities in our country, because there is a specific community who feels very strongly about this concept and brought this concept into the constitution-writing process and I think that is why we are dealing with it at this stage. The point was made by Mr Carriem earlier that by looking at self-determination on the one hand, we are placing the emphasis on the political independence concept to a certain extent and that is not taking into consideration the whole reality of economic interdependence being a stronger force to be reckoned with internationally. I think that is correct. If I can just give a very short quote in the book "Global Paradox" by John ???, 1994. He said the following, and he is absolutely correct, he said: The world's trends point overwhelmingly towards political independence and self-rule on the one hand and the formation of economic alliances on the other. And that reality of the non-post-World War world in terms of which we are all living now. That's the reality. To make a point by saying that economic viability is a very important factor and that if a state is economically viable, then it is just not possible to have self-determination. In the first instance it would be a question whether a Volkstaat would be economically viable or not and I am not going to argue with that. The fact is, I believe, that states do not have to be economically viable on their own as long as they form part of larger economic blocs like you've got the European Union, you've got the Northern American Free Trade Agreement, you've got the Pacific Rim and I personally foresee that in our context, in southern Africa, we will rather sooner than later have an association of southern African states in exactly the same fashion ??? economic region, economic bloc. So that's not contradictory at all.



Now, I would like to ask two specific statements or things said by Professor Dugard, which are not clear to me. The first one was this: the distinction he drew between a people, or peoples, entitled to self-determination and how such a people come into existence, a point made by Mr Beyers, and on the other hand a minority only entitled to internal self-determination. If I understood correctly, the point he made was that if you've got a people entitled to self-determination, and somehow they now have colonised, they remain a people as such and will have the right to self-determination. On the other hand, if a new entity is created afterwards, after this colonisation process, and they form part of this large entity, then they become simply a minority who are entitled to internal self-determination. If you make it practical in terms of southern Africa or South Africa, or self-determination in the context of Afrikaner self-determination, I would argue that the Afrikaner is in exactly that position of a people because they were independent people, governing themselves, recognised internationally before they were colonised by the British. Then they became a so-called minority who lost their right to govern themselves. Now, if the construction is correct, then I don't understand in terms of what right the people of the Baltic States are recognised as peoples entitled to self-determination because surely they also were colonised by a larger power – the Soviet empire – and they became part of a larger entity and after that, they should then have lost position as a people and should have become all minorities within the greater reality. I don't understand that reality and then there is just a last point. I think Professor Dugard said that if you are a minority, you are then entitled to internal self-determination which mainly means three things. In the

first instance, the right to participate in elections; in the second place the right to practise your culture and religion; and the last instance, to have access or to be part of the whole concept of human rights, to be protected in terms of human rights. In what way do any of these so-called rights of internal self-determination differ, in what instances do they differ from the position of a human or the individual himself? I see no difference between the position of an individual here and a so-called group or so-called minority. In terms of what has been shown here to us of internal self-determination, I interpret a simple, normal, individual human right and nothing more.

Chairperson

Professor Dugard?

Prof. Dugard

First of all, let me come back to this whole problem of peoples and minorities. I think here we have to look at this whole issue in terms of contemporary international law and relations. Dr Mulder has suggested that we should go back further in time and try to judge it by the claims of the Afrikaner people to self-determination from a long historical perspective and I think many nations, many people, can make that claim. The difficulty that I have is that I think we have to look at this from the point of view of modern international law and South Africa's own historical experience. The international community has been preoccupied with South Africa and apartheid for over 40 years and so there is this insistence on the part of the international community for exercising the right to self-determination within the boundaries of 1910. That would have been the case even were it not for the whole experience of apartheid, but the experience of apartheid and

the attempt to create a separate state out of the body of South Africa tends to have confirmed the international community in its approach. So I am simply saying that it is a pragmatic fact of life, based upon international law considerations. I think we have to accept the fact that the international community is unlikely to view with any sympathy the notion that the Afrikaner people are entitled to a separate statehood. I think that's a reality that one has to accept, although it may be questioned on historical grounds. Of course, one can look at the experience of the Baltic States, but one must bear in mind that the Baltic States were annexed by the Soviet Union towards the end of the Second World War. Western states said: we are not going to recognise this act of annexation, so to some extent the Baltic States were simply being liberated from that Soviet rule. Finally, Dr Mulder asked me what is the difference the protection of a minority and the protection of an individual. I say that international law only insists that the group should be entitled to participate in political life, to participate in cultural life and to be entitled to exercise human rights. This is really the issue that the South African Law Commission addressed, you will recall, when it was suggested by the National Party in 1989 that we should have a Bill of Group Rights, not a Bill of Individual Rights and the South African Law Commission concluded that the best way to protect the interests of groups is by means of individual protection. That is then the philosophy of contemporary international law, that minority groups should be protected as to individual rights. Here it is interesting to compare the different approach of the United Nations to that adopted by the League of Nations. During the League of Nations period there was great emphasis on minority

protection, we had the minority treaty between the League of Nations and various Balkan states. These were not a great success and so after 1945 we've seen the international community shift more in the direction of protection of the group through the individual. There may be a change taking place again, I think one sees it in respect of indigenous peoples, but the emphasis is very much on individual human rights as you rightly point out.

Chairperson

Dr Maluwa?

Dr Maluwa

I just want to react quickly to something that Dr Venter asked because he made reference to what I was supposed to have described as a foregone ideological construction. Now I want to clarify and re-state my position. My reference to an ideological construction was not with regard to the principle of self-determination, or the right to self-determination, but the whole question of ethnicity, to the question of tribe and to have even in certain contexts the question of race. I am obviously a realist, like everybody else, and I accept that I do belong to a certain entity called a tribe, such as this construction has come to be accepted in our societies. I also belong to a certain entity called race, the black race, and so on and so forth. These are realities and I don't deny it. And there are times when it has become useful for us to deploy those concepts in different ??? and so on and so forth. But I reject attempts to look at certain issues, including for example the question of self-determination, in terms of undifferentiated appeals to ethnicity and tribe and so on and so forth. Because I think we ought to be careful when we talk about these ethnic groups, when we talk about these tribal groups etc., what

exactly are we talking about? And I go back to my original point that in some cases these are actually invented social constructions. I'll give you two examples. We all know about the tragedy in Ruanda. We've been bombarded over the last year with this ethnic conflict between the Hutus and Tutsis and we are told that one group cannot stand the other, and so people are busy murdering each other etc. etc. What we are not often told is that historical lie that went into the construction of the so-called ethnic groups in Ruanda or Burundi, the Hutus and the Tutsis. Because during the period of British colonialism, there were attempts to deploy anthropological reasoning etc. etc.; in fact colonial anthropologists were to try to convince us that the Hutus and the Tutsis were distinct people ethnically, that the Hutus were in fact semitic, they are descended from ??? and that the Tutsis were more African, and so on. Anthropologists went to town to identify new characteristics: the Hutus have straight, longer noses, more European than the Tutsis etc. Now this was in fact, and I say it, to get a certain form of colonial government. The so-called Hutus were people who had been incorporated into the ??? civil service, into the state machinery and so on. The Tutsis were more pastoral, tending their cattle and so on and so forth. And somehow the socio-economic structure got ??? ??? explanations about the existence of two ethnic groups etc. ??? has demonstrated that these people belong to the same group, they speak the same language, these so-called socio differences which must ??? and ethnic Hutu and Tutsi aren't in existence and so on and so forth. But the colonial construction of tribes in Ruanda is part of the ??? is there and ??? that is partly because people, including Africans themselves, believe in that lie,

that they belong to different tribes etc. etc. So, we have to be careful when we use ethnic arguments on the basis for demands for legal rights etc. You take the case of Somalia, which we haven't mentioned yet. The latest attempt at secession in Africa is an attempt by a group that ??? Republic of Somalia even though they are part of Somalia. And yet we also draw it, going back to the same colonial anthropologists, that Somalia is the one example in Africa, apart from Swaziland and Lesotho, who is culturally, ethnically, linguistically a homogenous society. That's also ???. They belong to the same tribe if that is the ??? Why then is a section of people in that culturally, linguistically, ethnically homogenous society breaking away? Because the ??? have not yet hit Somalia. Now we have to talk in terms of ??? that although these people are ??? and everything else is the same, how is it they belong to different clans and so on, and tribes etc.? I mean family. So it is this ??? one branch of ??? Now I mention these examples to demonstrate the ??? of ??? to this sort of ethnicity in ??? etc. etc. I could go on and go on about the Nigerian civil war, for example. Before the Nigerian civil war, what ??? somehow mythically different from ??? ??? and other people ??? different linguistic groups. Somehow that identity was articulated and given a ??? for the attempt to secede. Nobody tells us that in fact the ??? because of problems in socio-economic perspective when ??? in the northern part of Nigeria could not accept ??? dependence for ??? speaking ??? being ??? in the northern parts and so on and so forth. Nobody tells us ??? which meant that we share the British colonial rules, utilise the existing traditional hierarchies of the northern Nigeria, the ??? people incorporated then into the colonial administration so that at

independence in 1960 you had in Nigeria a cadre of politicians and bureaucrats dominated by the northern as against the southern groups, and the eastern. We are not told the policy and ??? of the Muslim tradition in the northern Nigeria as against the Christian domination in southern and eastern Nigeria. We are only told that the Ibo's are a race, special. They even called them the Jews of Africa. The Ibo, the special tribe, they wanted their freedom and so on and so forth. So, it is an appeal that I make to myself, nobody else, that discourse that is based on ethnicity and tribe has to be undertaken in a certain ideological content. And I do think that historically you will find that quite a lot of what goes into these debates is really as a result of the interpretation of ideological construction. Thank you.

Chairperson Mr Holomisa?

Mr Holomisa Mr Chairman, I allowed the words of the professor...

Chairperson (in an aside) Is that the last one? Ladies and gentleman, finger lunch is available in the foyer. Laat my toe om ons paneel te bedank, professors Venter, Raath, dr Maluwa en professor Dugard. Laat my toe om die lede van die Volkstaatraad te verwelkom, naamlik mnr Dirk Cilliers, dr Chris Jooste en advokaat Chris de Jager. Na ete is hulle aan die woord om ons in te lig oor die Volkstaat. Laat ons presies 2,30 terugwees asseblief.<sup>1</sup>

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<sup>1</sup> Allow me to thank Professors Venter, Raadt, Dr Maluwa and Professor Dugard. Allow me to welcome members of the Volkstaat Council, namely Mr Dirk Cilliers, Dr Chris Jooste and Advocate Chris de Jager. Let us please be back at 2,30 sharp.

(adjourn for lunch)

I just want to make this arrangement. Mr Mahlangu and myself will be co-chairing because I also have a few questions to ask but I don't want to ask them from the chair. So then I'll ask questions and you will be chairing the meeting. It will be done in the following manner. Mr Viljoen will apparently give a short introduction and thereafter he will be followed by Dr Jooste and then Mr Chris de Jager. Any idea as to how long you will be to give the presentation? Thank you. Mr Viljoen, you may kick off.

Mr Viljoen

Thank you, Chairperson, ladies and gentlemen. Thank you very much for the invitation to participate in this workshop. We regard this as being of great importance to our cause. Let me also say that I presume that we will have further opportunities to discuss our views on self-determination with you. We have difficulty seeing today as the only opportunity to do so. In any event, that will be in your hands. What we think we should do as a result of time constraints is that rather than dealing with our first ??? report fairly extensively, we would rather concentrate on the questions that you have submitted to us and deal with those. Dr Jooste on my left will start and then Advocate De Jager and I will fill in with specific reference to the different territorial proposals. That, in a way, will deal with most of the report itself, but in view of time constraints we think that is the best to do. Depending on questions obviously, we could then also fill in from the reports. Thank you, Chairperson, Dr Jooste will then proceed.

Dr Jooste

Chairperson, my presentation will include a short overview of the role of the Council in the constitutional process and



then Afrikaner self-determination; secondly, the Council's approach to self-determination and then lastly, a few comments on relations between South Africa and the Volkstaat. Constitutional Principle 34 and Chapter 11A of the Interim Constitution emanated from the accord on Afrikaner self-determination between the ANC, the Freedom Front and the South African government, signed on 23 April 1994. The accord, Constitutional Principle 34, Chapter 11A of the Interim Constitution, Section 184(b) in particular and the establishment of the Volkstaatraad make it possible to deal with all matters in connection with self-determination for Afrikaners, whether it be in the form of a territorial entity within the RSA or in any other recognised form. Recognised forms include a Volkstaat, self-governing areas, and corporate forms of federation. It could under given circumstances include self-determination by way of the excision of a territory which now forms part of South Africa. It should be noted that Section 184(b) in particular is directed towards the establishment of a Volkstaat. At no stage during the negotiations preceding Constitutional Principle 34 was there any intention that the Volkstaatraad should confine itself to cultural and corporative forms of self-determination or to the protection of minority rights. Provisions relating to self-determination in the Interim Constitution before Constitutional Principle 34 was added, have reference to language and other cultural rights but the subsequent addition of the said principle went much further than, for example, Constitutional Principle 12 which deals with language, cultural and other minority rights. As far as the role of the Volkstaatraad is concerned, it is mainly concerned with the implementation of Constitutional Principle 34 in the new Constitution. To this end, it has

made submissions to the Constitutional Assembly on a number of issues in order to ensure that Constitutional Principle 34 will not be frustrated at a later stage when specific proposals for a Volkstaat are considered. An interim report has been issued, dealing with the issues of the location of a Volkstaat and with other forms of self-determination. The report has the status of a discussion document. Comments and further evidence will be received and processed, feasibility studies will be undertaken, and in the light thereof, the Council's representations and proposals will be reviewed and refined. It is anticipated that the discussions and further evidence and investigation will also include interchange with the organs of the Constitutional Assembly in the form of workshops and consultations through the Liaison Committee. The aim is to arrive at the wording of a ??? dealing with Afrikaner self-determination which will be acceptable to the parties concerned. It should be noted that the Council is obliged to gather ??? and make available information to make feasibility and other studies and to submit its recommendations and representations to the Constitutional Assembly and the Commission on Provincial Government. The Council is the constitutional mechanism to enable supporters of a Volkstaat to pursue constitutionally the establishment of such a state. Its role is not to canvass support for a Volkstaat or for other forms of self-determination nor to negotiate agreement, nor to establish a Volkstaat. The Council is a technical and research institution, each task is to assist the Constitutional Assembly and negotiating parties investigating the relevant issues by putting forward proposals and providing information and clarification that may help the parties to

arrive at practical solutions. A few remarks about the Council's approach to self-determination. Self-determination as the right of a people is one of the central ideas of World War 1 that has survived and seems to be thriving today as never before. This is borne out by the large number of UN Resolutions on the issue, especially Resolution 1514 of 1960 on colonialism, which repeats the proclamations in several of the other Resolutions, that all peoples have the right to self-determination. During and after World War 1, it was thought that self-determination was only for the subjugated peoples and minorities of Europe. After World War 2, the prevailing perception seemed to be that the right was only applicable to colonial peoples. However, demands have cropped up the world over. World peace has become an elusive objective and nation states have become unstable. About a third of the states of the world have to cope with unrest, insurrection, civil war resulting from the quest for self-determination. It is now considered that subjugated peoples can claim self-determination. Such claims are not new: the American colonialists were among the first to use the slogan successfully and the French Revolution is considered to be the first concretisation of the idea in Europe. President Wilson announced his fourteen points for the right of self-determination of peoples during World War 1. It became the war cry of World War 2. It is embodied in the UN Charter and in many international declarations. Notions that self-determination applies to certain kinds of people only have been severely criticised. Prominent international expert, Justice Michael Kirby, has said: "The notion that cultural and national identity is limited for the purposes of people's rights to self-determination to formerly colonial states cannot be accepted. It is

conceptually and historically unsound. It also denies the generality of the language of the Charter, the Universal Declaration and the Covenants." He advances four criteria for defining or describing the characteristics of the people entitled to self-determination. The criteria are: communality of history, ethnicity, language, religion, culture, geographical connection, commerce, philosophy or otherwise so as to provide a group identity for the people concerned. Secondly, sufficiency of numbers to warrant being treated as a people for international law purposes so as to exclude a group of tiny numbers of insignificance to the community concerned. Thirdly, a will to be seen as a separate and distinct people and fourthly, institutions having some degree of formality which can give effect to that wish. On the basis of research and evidence that has been presented to the Council, it would seem that Afrikaner characteristics can meet the four criteria and this is set out more fully in Chapter 2 of the Council's interim report. The report goes on to summarise the perceptions of many Afrikaners that they constitute a subjugated people, that they are beginning to experience suppression, that conditions are likely to deteriorate and that a point may be reached where an internationally recognised right to secession will emerge. Meaningful territorial self-determination is considered to be the only answer to their present predicament. Then finally, relations between a Volkstaat and South Africa. A Volkstaat will be small as far as its land and population are concerned. It will be among the one-fifth of the states of the world with populations of one million or less. Small numbers, wide dispersion and intertwining make it essential that a Volkstaat should come about peacefully, that it should maintain a co-operative relationship with South Africa. That

South Africa should stand to gain more with a Volkstaat than without one, that international recognition should be forthcoming, that international law should be complied with, that it is economically viable, and that it should contribute towards peace and development in the regions. From the evidence received, it would appear that supporters of a Volkstaat realise that the above conditions will have to be met and that by and large they would want peaceful and constructive relationships to exist between a Volkstaat and South Africa. Citizenship of a Volkstaat and human rights brings issues of reconciling a Volkstaat with a democratic South Africa to the fore. The reality of an integrated economy and constitutional requirements of a single sovereignty and of non-discrimination are relevant. The accord deals with some of these issues and the agreement that has been reached is embodied in the existing Constitution and in the Constitutional Principles. The question of how Volkstaat nationality and citizenship should be established, has been considered by the Volkstaatraad within the context of the accord of the Constitutional Principles and of international custom and practice in this regard. Mr de Jager will, no doubt, expand on these matters. The Volkstaat will come about through legislation by the RSA, in which we also include a Volkstaat Constitution. The latter will contain provisions for citizenship as well as a conventional Bill of Rights. Tentative proposals for measures relating to nationality and citizenship and the interim measures and institutions to pave the way for Volkstaat citizenship are included in the interim report. Thank you, Mr Chairman.

Chairperson

Dr Jooste? Advocate de Jager?

Adv. de Jager

Thank you, Mr Chairman. Mr Chairman, on listening this morning, I had the privilege of sitting at the back there and listening to questions arise, and I realised that perhaps members hadn't had the opportunity yet of studying our report. I want to lay a few fears at rest. We recommend to have a Volkstaat as part and parcel of South Africa. We are not suggesting secession. Secession is a right that could accrue if, and only if, Afrikaners are oppressed. We hope that we won't be oppressed. If we are not oppressed, we will stay part of South Africa because the Constitution provides for one sovereign state at this stage and obeying the Constitution, as we want to do, we don't want to have a rebellion, we want to act within the Constitution and negotiate a solution. If that's the position, how then could the question of self-determination be addressed? We want to be quite open with you. We want self-determination, coupled to a territorial base. We can't have self-determination if we want to take the whole of South Africa because we are a minority then. We can only have self-determination in that area where we could be a majority and that answers the next question. What about the other people staying there? Should they be allowed to vote? Will they be able to become citizens? We're not going to disenfranchise anybody, but we say: Give us the opportunity to demarcate the area where we could have ??? land, a sort of home base. All the other people in South Africa they have a home base. You could look around the Venda province - all the people's have got their home base, they are all living there and that home base is included in the rest of South Africa. It is not a self governing state, the Vendas wouldn't like it. The Xhosas have got the Eastern Province; the Zulus have got Natal, each province within

South Africa, including other people too... In a Volkstaat other people will be included too and they'll have there all the people that they want living there without citizenship. But we are asking for a small province, constituent state, in South Africa. We will be sending our representatives to this parliament too as all the other provinces are doing. They will be sitting in the Senate on the same basis as the other provinces. But we say give us the opportunity to have a province, a constituent state, where we could also see to our culture, our language and whatever we want to do for our people. That's the basis, that's the background of the report so in the first place, we are not asking to be a separate state in southern Africa at this stage. As I've explained, that is a right that could only accrue once we are oppressed and we hope that we won't be oppressed that, that right wouldn't materialise within the near future. That is one basis. As far as citizenship is concerned, I've already said that nobody would be disenfranchised or nobody would not have citizenship of the Volkstaat. We believe in voluntary association. If we want, or other people want to associate, to be Afrikaners, if they feel at home with the Afrikaners, they could be Afrikaner citizens. If they are not happy to associate on a free basis, they are free to say, "no, we will have our vote here or we will prefer to vote in the next province", but everybody will have the same voting powers that they have today. We are not disenfranchising anyone. As far as ??? is concerned, as I said, if people like to come and stay in this Afrikaner province, they will be free to do so because we are bound by the fundamental rights. And if people feel that they want to associate themselves, they love the Afrikaner to such an extent that they would all come and settle there, it can't be avoided,

but it would be your choice. You have the freedom of choice. All we are asking for: give us the opportunity to create something for our children and old people too. And that's what's being put forward here. Have a look at the report, study it, it's not discrimination. We are bound by the fundamental rights, we are accepting these. We are accepting this Constitution. We say: Give us room within this Constitution so that we could all build together for a new South Africa. Mr Chairman, as far as the questions which have been asked, it may be that you will repeat them and we could answer them when they come up.

Chairperson            Opportunity now for members to ask questions. ???  
Mahlana?

???                        Thank you, Mr Chairperson. In our Constitution ??? we traced the Bill of Human Rights and there is no way ever that anybody in South Africa, be it white, black, Afrikaner, Portuguese will be discriminated against. ??? the Afrikaner ???it fears, they are opting for a Volkstaat ??? Is it because they don't sit comfortably with these other peoples, even sharing the same company, ??? sharing everything that they've got to share because experience has shown us that other people of the same race and the same language are prevalent??? only stay in one place, not in ??? stay together, the Zulus are staying together etcetera etcetera. like all the Afrikaners. Simply go to Pietersburg and find Afrikaners sitting ??? in one part of the town and the other part you've got Jewish, you've got Portuguese etcetera etcetera, where nobody is discriminated against. Thank you.

Adv. de Jager            We all stay in the same house. Some people like to have a



room in that house. And we say that South Africa is a house. We are happy to stay in South Africa. We are happy to share this house, but we also want a small portion where it could be our room, where we could stay as a community. All the people...

(end of tape 6

TAPE 7

Theme Committee 2 - 26 JUNE 1995

Adv. de Jager ... and I think it is nothing else, but a family, a bigger family grown from the same family. And that's what's dear to us. That's what we want to preserve. We want to the freedom to preserve our language. I am speaking here today not in my language. I would like to speak in my language.

(people interjecting away from the mike)

??? I would rather suspect that quite a lot of questions may have a similarity and I am about to suggest that you consider, as a Chair, that you take a number of questions and comments and then any one of these three representatives of the Volkstaat Council could then feel free to answer or respond to comments rather than taking every question and then finding the response. Because you might find that similarities mean repetition. So, I mean, I am just proposing that for your consideration, Mr Chairman.

Chairperson Let me just ask the panel, can we take short questions at a time and then we respond?

??? Thank you, Mr Chairperson. Mr Mtshali appears to be taking the words out of my mouth because every time I want to say something, I find that he's already said it. I have a similar question to put to Advocate de Jager, similar to the one put by Mr Mtshali. The Bill of Rights in our Interim Constitution provides for the protection of individual rights. You and I, as individuals, irrespective of what languages we speak, to which religions we belong etcetera etcetera ask for protection by the

human rights. My problem is to understand why the Afrikaans-speaking people should have a ??? but if they are not granted their wish by the Constitution, they will lose their identity. I maintain, Mr Chairman, that you and I, as individuals already protected by the Constitution, you and I are free to organise people in other provinces who speak the same language, belong to the same religion as you and I, and form ourselves into a cultural group, one that could share ??? among other things, where Afrikaans-speaking people could practise our religion, we worship our God. We already have this as a group and do whatever we used to do ???. You are already as a group. You are protected by the Constitution as an individual, your group rights are automatically protected, even if you are a group of 2,3,4,5,6 people. The same way that you as individuals are protected, everyone in that particular group is already protected and therefore to say: we want to protect it as a group, is really beyond my imagination. I would like to know what is your fear because you as a group, as individuals, are already protected by the Constitution and, as individuals, whether you are in a group form or not, every individual in that particular group is already protected and they are free to do whatever they want to do, to practise whatever religion they want to practise, speak whatever language they wish to speak, go to which church they want to, to which they want to go.

Chairperson

Mr Carriem?

Mr Carriem

I think that to some or other degree, I think we have quite a number of groups in South Africa that have anxieties about their identity, Afrikaners are one of them. I think that nobody is saying that those anxieties are not understandable, they are highly understandable, it's hard to address them, but I think we

defer. Now the obvious issue that arises is if we give Afrikaners a Volkstaat, will this be opening the floodgates to other ethnic communities also demanding similar autonomy and does that mean then that we are going to break up South Africa into a series of ethnically defined, territorial, autonomous provinces? Related to that as a question, what is so specific about Afrikaners? Zulu-speaking people have anxieties about the future. Even Xhosa-speaking people have anxieties about identities. It is a period of transition and change and therefore it is inevitable in a period of social stress that these anxieties become worsened, so there is nothing specific about Afrikaners. What is it about Afrikaners particularly that makes it necessary to give them a Volkstaat at this particular time? Now, what worries me slightly – unless I misunderstood the first speaker, and I hope I have – is the proposal you seem to be making that one of the roles of the Volkstaat and Volkstaatsraad is to propose to the Constitutional Assembly a Chapter, and I thought he said a Chapter in the Constitution, of Afrikaner self-determination. I cannot see the feasibility of that because if you are ??? Afrikaner self-determination, Chapter 10 will be somebody else and Chapter 11 another, you will have a Constitution filled with Chapters of self-determination of different people. You can have a Chapter that deals with broad principles of self-determination. And I think that even if one grants that people want self-determination, the next question that is posed is: Have they done enough to pursue non-territorial options for self-determination? The question I raised earlier, about the question of culture, religion, language etc., without having to seek some sort of territorial base for that, especially as you also recognise a large part of the people that you claim are Afrikaners that are dispersed throughout the country. The next question that arises too is that in what sense

are Afrikaners a nation? To what extent are let's say so-called Coloured people who speak Afrikaans for that matter, or African people who speak Afrikaans going to be part of this Afrikaner nation, if language is a criterion? If you use the broad sense of culture, to some extent people of colour can also be considered Afrikaners in the broad sense of the use of the word culture and not just language. At one level we have the Volkstaat proposal as a way of welding an Afrikaner identity; at another level you've got people residing and co-existing side by side with people who might be considered Afrikaners in the narrow sense and non-Afrikaners. Now how do these people, the non-Afrikaans-speaking people living in the Volkstaat develop a sense of identity? Because they cannot identify with the state since the state is an Afrikaner Volkstaat, but yet they are South Africans? One of the notions of identity is obviously that you develop, as we said earlier – I did and somebody agreed with me – a multiple set of identities, but you've got the problem that living in the Volkstaat the character of Afrikaner culture, you're not Afrikaans and yet you belong together with the Afrikaners to a broader South African society. Now in what way can you ensure that although you are giving the non-Afrikaners the vote that you are also giving them space for culture and religious and so on expression?

Adv. de Jager

Chair, could I ask... because we've got about ten questions in the meantime, although it's only two persons asking the questions, but it may be that if we are to answer about twenty questions in the long run, we may skip one or two. So I would be glad that if we leave out any questions, you will remind us that, that one is not answered yet.

Chairperson

If you indicate that you've already got ten questions, then I

agree with you to start answering them now. But I would request my colleagues, I think you are putting your questions too long; you are interweaving the comments with your questions and I think that is going to delay our deliberations.

Mr Viljoen???

Can I in the meantime attempt answering some of these questions, Chairperson? The question was: what do Afrikaners fear? What I would like to say, Sir, and that also relates to some of the other questions. Afrikaners want to be able to make decisions regarding those matters which are of crucial importance to them. That means they have to have the power to establish their authority on all levels of government: local, provincial and central. There was reference earlier on to why not simply accept authority on the local level. This is simply not possible and not true. Now, I'm saying this desire for self-rule relates essentially to cultural matters, but it also extends to other matters such as finances. It is often said that the man who holds the purse strings in fact governs. So it is very important to see that Afrikaners want to make certain specific positions which affect their lives, their philosophy of life, for example. Now, in the new democracy that we are talking about and we have this Bill of Human Rights, it is obvious even after one year of government, that numbers obviously do count. I mean it counts as far as the use of the Afrikaans language is concerned, it counts as insofar as the introduction of English into Afrikaans schools is concerned, the education system, everywhere, numbers count. And we are a minority. We find ourselves in the situation where very important decisions are being made without being able to do anything about them. There was a question regarding the anxiety of different cultural groups. Obviously other cultural groups would have similar anxieties. The question is would a Volkstaat perhaps not open

the floodgates so that we have a total disintegration of the nation state and then what is so specific about Afrikaners? I think one could argue, Sir, that all peoples have these desires, but they don't always express them in a similar fashion. For example, I think that many of the African nations accept, for example, English as the language of communication; Afrikaners want their own language to be supreme because that is essential to their way of life and their beliefs. But we cannot speak for the other people. So far I think I can safely say that the only other peoples who have indicated a desire for independence is probably the Zulu nation, but I'm not even attempting to make a statement in this regard. I think the last question, I would like to deal with is this: Would non-Afrikaners in a Volkstaat also have space for cultural development? I think one of the proposals contained in our interim report is that for civic councils and that specific aim is for Afrikaners outside the Volkstaat to have a certain measure of cultural self-determination, not on a geographical basis and as the proposal was constructed, it was also meant to apply to other groups, minority groups, within a Volkstaat. So in that respect, I think, we also provide opportunities for other peoples who find themselves within a Volkstaat to have that kind of cultural self-determination. I think as regards the Chapter in the Constitution, I would leave that to Dr Jooste to reply to.

Chairperson

Dr Jooste?

Dr Jooste

Mr Chairperson, I would just like to say in general that the Bill of Rights in the Constitution doesn't seem to satisfy people's striving towards statehood anywhere in the world. They keep on driving for self-determination and I think Afrikaners have a history of statehood; they experience themselves as a people,

they perceive themselves as a people, they perceive themselves now as a people without sovereignty and they perceive themselves as people who are on the verges of suppression. Those are the facts and I think that is exactly what gave rise to the accord and to the provisions in the Constitution. I feel that – at least I don't feel it, the Council is of the opinion that – a matter of self-determination for Afrikaners should be addressed in the new Constitution, whether it be in the form of separate Chapter or provisions all over, I don't think that's an issue at the moment. The important thing is that the urge is very strong, the evidence is very clear about it that the matter should be dealt with satisfactorily in the Constitution.

Chairperson            Is al die vrae beantwoord?<sup>1</sup>

Adv. de Jager            The question of why shouldn't we be satisfied with the fundamental rights. Education, it's a fundamental right, but, in Gauteng for instance, they are busy creating schools where Afrikaans-speaking peoples wouldn't be able to exercise that right. So what have we got to do there? Take your child out, create a private school? Will private schools be subsidised? Or will there be a difference? If I want to educate my child in Afrikaans, and the school in my vicinity has got a majority of English speakers, the Bill of Rights can't help me because I know it's impossible for the state to create twenty schools in the same city. We must find a solution for that, and that solution could be, if there is an area where Afrikaans schools – the majority of people are Afrikaners, speaking Afrikaans, you could have Afrikaans schools there. And people staying in

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<sup>1</sup>            Have all the questions been answered?



another town could send their children to that school, but it could be a state school then. The only thing is wouldn't we create, open the gates for other people to do so? Sir, if that is so, and it's a solution to the problems of South Africa, to bring harmony into South Africa, why be afraid? Is there a choice? It's freedom of choice. Nobody tells them to do so, but if that's the solution, create the possibility, don't tell them to do so, but if they want to do so, if they've got a referendum that the majority of the people in that vicinity ask: listen give me this limited self-determination, shouldn't it be considered? You say wouldn't we create different loyalties or identities? Capetonians and Pretorians stay in the same country, but they've got different loyalties. That's a fact. They're not disloyal to South Africa, but they're loyal to the region where they are staying and there's nothing wrong with that. I think it's good competition in the long run, in the way of sport etc., creating good competition, but building together the different people, the Capetonians and the Pretorians, in, for instance, one team in the long run.

Chairperson

Mr Ebrahim??? and then Mr ???

Mr Ebrahim???

Thank you, Mr Chairman. Mr Chairman, I would just like to be cleared by Mr de Jager if I've heard him correctly, that in the establishment of the Volkstaat, he said that it was quite possible that the Afrikaner there could be a minority because if overwhelming people wanted to associate themselves and went and lived in that place they were welcome. I welcome that decision because that's a big difference between the Free State that was there and the Afrikaner Volkstaat that he wants to create now, because the question of "uitlanders" doesn't seem to feature very much in the new concept, which, I think,

is a progressive step in a sense. But what I would like to know is, if that possibility is there that, that Afrikaner Volkstaat will have a minority of Afrikaners, that they are prepared to accept the majority, then why not live with the majority in the rest of the country? This, I think, is an important aspect because what we are trying to avoid in this country is to revert to Bantustan or homeland policies because it seems to me that is what we are getting back to, the question of little ethnic pockets created. But here we are saying that when we say that we accept the fact that if other people want to come and live there, they are free to do so, then we are accepting the fact there that South Africa is open to all, it is not only for the ethnic groups in that particular place. I just want to know whether I have heard him correctly.

Adv. de Jager

You've heard me correctly. It is a question of freedom of association. I don't think that in Verulam, for instance, the majority of people would be Zulus. People flock together out of free association that's why somebody said there would a Jewish suburb somewhere because people of the same kind want to live together. Give them the opportunity, it's freedom of movement. If I want to go and live among English-speakers, I could do so, but I'd like to live amongst my own people. Make it possible for me, and give me some rights there. That's all we are asking. Not roles conflicting with other people. That's all we are asking. I don't think it's too much, Mr Chair.

Chairperson

Mr ... And then Mr Mtshali.

Mr ...

Thank you, Chairperson. I am worried by one thing and that is the economical side. In this country it is well-known that whites are still controlling more than 90% of the wealth of this

land. Let's say you succeed in these negotiations, you get the Volkstaat, definitely you are going to go with all your money. And the other side, the majority, who are at present only controlling about 3% of the economy of South Africa, will remain without anything. They have to start from scratch. Yet we know from history that the former government, which was of Afrikaner trend, was actually responsible for the other groups being impoverished. How are you going to address this question because that is a responsibility. You are to be aware of addressing that. If you are no longer there, you are no more responsible.

Chairperson Mr Andrew???

Mr ??? Mr Chairperson, I am going to raise two questions. The first question is much related to the issue that was raised by the speaker before the last speaker, that is Mr Ebrahim. What I wanted to know is, if the Volkstaat happen to find that kind of re-structure, which I don't believe they will have, how will they address the situation where that area could be flooded by people and eventually take over parliament in that area? I belong to ??? the Volkstaat. Then the second question is, I have a problem because I have been following the meetings that were held by the leaders of the Volkstaat, and in the majority of the meetings that I have seen on TV and other areas it's almost the aged that are attending the meeting. I mean, is there a future of this without the young people?

Chairperson Mr ???

??? Thanks, Chair. What I am going to ask here is basically based on looking at the submission here, on page 5 of the Volkstaat

Council and also taking into consideration the history of the Afrikaners since the National Party got into power. I must say I do appreciate the positive role played by the Freedom Front in the present phase of our democratisation of the Council. Afrikaners have a history of privilege, ever since they got into power and, of course, one can also say a history of privilege that was abused in the sense of the way in which some labourers were treated by some of the farmers, the way in which children were indoctrinated, the culture of hate, if I may put it that way, demonstrated by instances where people were trained to shoot at black targets and the black man was used as a target, where you found dogs were trained to actually ??? victim. Now this whole conception of the Volkstaat, is it some mechanism of trying to maintain the past in these proposals because I see here in terms of item no 5 there, "own police, citizen defence union, domestic defence union" which brings memories to me of the intolerance that one suffered at the hands of the Afrikaner police, the whole abuse of authority we had under the Afrikaner. Is this the way of trying to not let go because I think if we are to try to enter into a democratic system, we will have to come at a point will we let go some of these privileges, some of our minds bring memories of horror and intolerance.

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Thank you very much. What makes one so very sceptical about the cause of a Volkstaat. I grew up on a farm, where we had several farmers. Our parents were working there. Our forefathers did something wrong in that farm, he would be put in a ??? and ??? to his household so that he must be whipped in front of his children and his wife because it was supposed to be extreme to the ??? We are looking at the cause of the Volkstaat behind that background where we feel that you've

not had enough of this, you still want to have more of it. So, you must understand, we come from a background of poverty, where we have been ??? where a black man has no rights, so you must understand when we raise these questions.

Dr Jooste???

May I start by attempting to answer the last few questions. I think we can all go back into history and perhaps start accusing one another of this and that and the other. The fact of the matter is that what we are proposing may be difficult to believe, that what we are proposing is totally different. Obviously one must see what is happening today as part of history. There's always dynamics in this kind of development and I think Afrikaners who actually want a Volkstaat, as we see it in terms of our report, have something different in mind from the past. What I would like to ask: let us not dwell on the matters of the past, I know how painful they are, maybe it is for that reason we should not dwell on them, but let us rather look forward in order to avoid something catastrophic which might catch up with us in due course, should we not find suitable solutions for very, very real ethnic problems and, I think, I would like to plead with you that we do not simply disregard these what has been termed "fears, anxieties of the Afrikaners". We are here with a constructive attitude, positive approach. With your assistance, with the assistance of the Constitutional Assembly, we must find solutions to these problems. This is my plea. I would like to just come back to the previous question where mention was made by Mr Ebrahim, in fact in a question to Adv. de Jager about Afrikaners being a minority in the Volkstaat. Obviously we approached the concept of a Volkstaat from the viewpoint of an Afrikaner majority. Should Afrikaners not be in a position to maintain that level of that majority in future, then obviously the majority of

non-Afrikaners would then govern that territory. We have no choice, there is no argument about it because I mean that is the principle that applies in terms of the Constitution and would apply in future. Now, the question is how are we going to attempt to control this, the influx of non-Afrikaners? Now, that is a very difficult question that I would not even like to attempt to answer, but somehow Afrikaners would have to guard the integrity of that Afrikaner state in future, by whatever means, obviously legal means, constitutionally. I think Adv. de Jager's answer was that people are inclined to find their own kind of people, there's a natural tendency to do that so for that reason, possibly mostly Afrikaners would prefer to be in that area, not that we would drive people out or in some way make it difficult for them to come in. I think that is not the intention, but we must accept that what we are talking about is a majority situation. It cannot be an Afrikaner Volkstaat with Afrikaners in a minority position. That's why you find a proposal for a Volkstaat in the report is based on a presumed 1991 Afrikaner majority in that particular area. May I also then just defer to the question about the economic considerations. I think the question was when Afrikaners moved out into their own area, they are going to take all their money and what is going to remain for the rest? Now, Chairperson, there are two very important points here. The one is that we do not see such a large percentage of Afrikaners in the end ending up in an Afrikaner Volkstaat for reasons of their geographical situation at the present moment. So my first point is it will only be a relatively small proportion of Afrikaners, maybe a third, maybe 50%, maybe less. It is certainly a misconception, Chairperson, that Afrikaners are the rich people of this earth. They are not. Afrikaners obviously have a certain amount of money, they have certain riches, but we are certainly not the richest group

of people in this country. So with that I would like to say that I don't think the consequences will be all that dramatic for the rest of the economy, but more important, Chairperson, is the fact that a Volkstaat cannot operate as a separate economic entity. It obviously will form part of the larger South African economy. It simply cannot work otherwise. I would like to suggest that this future Volkstaat could continue to make, and even make a bigger contribution to the economic wellbeing of the country as Afrikaners do at the present moment. So, I'm positive, and I think it is our intention not to disrupt the economy and the financial welfare of the people of this country. There was a question regarding the area flooded by other people, I refer to that. The other question was whether there would be a future for young people. Maybe you are looking at the wrong meetings when you say that only old people are attending those, but we think that any people with an ideal of governing themselves would, of necessity, attract young people as well. It is not as if only old people share those ideals, I think that is a misconception. We believe that we will find young Afrikaners. We have them in our midst at the present moment. We will find them who will be prepared to make a sacrifice, because it is going to mean a sacrifice in many terms for people to establish an Afrikaner Volkstaat. Thank you, Chairperson, I don't know whether any of my colleagues would like to add anything.

Chairperson

Anything? No? Next, Mr ??? then Mr Taunyane.

Mr Ligege???

Mr Chairperson, mine is a ??? little bit unfortunate because we are starting negotiations here. Advocate, we were with him at Kempton Park, where he had spoken well unless he had ???. Now, they nominated him maybe they didn't know about

elections during negotiation. My question is, he said if we are not oppressed, we could stay in the Republic of South Africa. This is what he said. But in his report here, page 14, he says "many of the ??? have collapsed and are leaving the country. ??? who stayed behind ??? in their new environment. If history goes beyond a certain limit, tension and ??? ???" That's in the report. On page 50 they say: "affirmative action in the labour field and in the re-appointment of land are matters of particular concern. Afrikaners are systematically being replaced and they expect this to increase." Then, I don't know what he is trying to say now here: is this the thing which is making people look for their own country within the boundaries of South Africa? That is the first question. The next one is, when you said Venda, I don't think there was any person from Venda who came to the Republic of South Africa from the past who claims to be given a land, if not imported by you. Thank you.

Mr Taunyane

...can clarify me. They see they need their own province. How is that province of theirs going to be because they talk about Vrystaat, Volkstaat, Brandersburg Noord en Suid, suidoos-Kaap and noord-Kaap? I just want to know how that province is going to look like. Secondly, they are saying that the conditions are going to deteriorate. I want to know what conditions are going to deteriorate. Because is it then the fear of being overruled by other people or being dominated by the other cultural groups? Another thing that I want to know is: you have said that we can't compare the Volkstaat with homelands in the earlier presentation before lunch because people in the homelands were forcibly taken there. Now, this moment now, it is said that the Volkstaat have a need, they compare again with the homeland, but they need similar things like the homelands. Now what is the right thing, regarding this



Volkstaat? Thank you.

Chairperson

Mrs Sethema?

Mrs Sethema

Thank you, Chairperson. I would just like to pick up on the questions that have been asked by Mr Carriem. I have the same questions in mind as well, which were not answered. And that relates to the investigation around any other kind of self-determination which may not be a territorial area or region, whether there have been any explorations in that regard? And I think it is quite easy to be told, or even to accept, without going into details on some of these things, we are being told that the Volkstaat which is proposed, everybody else who wants to be part of that Volkstaat, would be part of that Volkstaat. Now, without getting into detail, it is quite difficult for us to understand what is actually being meant. We could take, for instance, issues like the kind of legislation that's going to prevail or to be made or ??? in that proposed Volkstaat. What is it going to be? Is it going to prohibit some other people too, like the question which has been answered right now, to say there could be some influx control. Any other means of that control? We don't know what that means. And, I mean, as time goes on you might even find that there are the young generation, if they might even develop a relationship with some other people who are not part of the Volkstaat. Are they going to be denied the right to get married in part of the Volkstaat or in part of South Africa? The kind of legislation on certain issues which is going to be there, it's quite difficult for us to actually, – without any other option presented, which is not territorial, or without any form of detail – reflect on this whole thing and come up with a clear understanding or even develop the proposal as put forward by them.

Chairperson            The panel can now respond.

Adv. de Jager            Mr Chairman, I think that there was referred to revenge. We want to prevent revenge. Let's start afresh. We've acknowledged, it's all over acknowledged that there have been mistakes in the past, but we are not here on a political platform at the moment. We are trying, on the evidence presented to us... we are here to just tell this Council what are the people saying outside. Afrikaners are worried. And perhaps there is reason for them to be worried. I don't say it's unfair, but I say this, they have to make room for other people in, for instance, the civil service. That's a fact. If we want to have affirmative action there, Afrikaners have got to get out. That's true. They need other work. They've been living in Pretoria, maybe they've got to move out to somewhere else now. That's a fact. And that's what people are worried about and that's why they say affirmative action, somebody's got to be the loser there. As we have said, that Afrikaners are at present the losers there because they have the jobs and if you've got to insert affirmative action, somebody's got to move, and it's the Afrikaners who have to move. So we don't want to blame anybody, we don't want to complain about anything, we are only stating facts and that's a fact that has been stated in the report here. As far as areas, referred to as the Bosveld areas, and all those areas, they remain, they're not Volkstaat, they remain part and parcel of the province. They pay taxes to the province. Even the Volkstaat people, they are not taking their money away, they will be taxed by this government here because they are still citizens of South Africa.

TAPE 8

Theme Committee 2 - 26 JUNE 1995

Adv. de Jager

..but I hope they will stop it because we need endure, everybody needs to endure, and what we are trying to create is room for all of us to be positive about South Africa and to create something here in which all of us can take part. You said we didn't investigate another option, except the territorial option. Unfortunately, and it may be that, that part of the report didn't come to hand, I don't know, but that's exactly what the proposals about City Councils are. There is no territorial basis there. It's saying that ??? you are dividing about services rendered and cultural services and anyone in a group asking for a separate cultural body should have the freedom to have that cultural body in order to organise cultural affairs on a ??? government. I think ??? to produce money themselves except if there's money put forward for that purpose, then it would be for the cultural councils or civic councils to want to take part in that and to organise their own culture, it would be on an even basis. As far as marriage is concerned, we don't want to worry the fundamental rights of anybody else in South Africa. It's freedom of marriage, freedom of association. It can't be ??? then it would be against the Constitution and it will be tested by the Constitutional Court. We're bound by the decisions of the Constitutional Court. We accept that in the proposals we made here. So there's no trying to create avenues of escape, we're trying to create conditions where we could work together, but where we feel that our culture, our religion, our language and everything that is dear to us could develop in harmony with the other people in South Africa.

Dr Jooste

Chairperson, I just wish to add that the first Constitution of a Volkstaat would have to be approved by the South African government and I should think that, that Constitution, that Bill, that Law would have to pass the Constitutional Court. So the question of keeping in the old apartheid discriminations and so on are not likely to occur and if they should be introduced afterwards, I think that the national community will react to that in such a way that it won't be considered. I just wish to say also that the section dealing with non-territorial self-determination has been included in this report, on page 106, from there on. I think the evidence we got suggests that Afrikaners are no different from other peoples; you get all types of ideas among them as you get among other peoples. Some of them will not settle for anything less than a Volkstaat, others will be satisfied with autonomous areas with limited self-determination, others may feel that if they have cultural self-determination, they can manage their own cultural affairs and schools and so on, others will not want anything of that, they will simply want to be citizens of South Africa, they will not join any of these. I think all these possibilities for self-determination are dealt with in the report.

Chairperson

Dr Pahad?

Dr Pahad

Many of my questions are going to be as part of a comment. First of all let me say that we certainly accept the integrity of the members of the Volkstaatsraad. The integrity of those members is not in question at all. What did, however, concern me, listening to the three representatives, was the very subjective way – and I'll come back to the subjective animal later – in which they are

presenting their report. It's not a report which says that we investigated the matter and took evidence from some Afrikaners, this is what some sections of the Afrikaners believe, but it's all the time "we". "I am an Afrikaner, this is what I think." And I think this does raise some questions in my mind about this assessment because obviously it's difficult to have an objective assessment if all the time one is personalising the matter. And, I thought, all of the responses were basically very personal that "I believe this" and "I want that" and that does create some problems for me. Because I was there when the Volkstaatsraad was inaugurated by Deputy President Mbeki. And so I think that we need to slightly shake this thing. There must be some objective criteria. I will come back to that later. Secondly, I think we must accept that this is the beginning of the discussion and this whole question of the Volkstaat is part of the debate that's going to have to take place in the Theme Committee, other Theme Committees, in the Constitution itself, as to how to deal with this problem. So, we are not going to end this discussion today. This is only the beginning of the process of discussing these issues. Now, speaking personally, I fully agree that every endeavour has to be made to defend any ??? which cultures, traditions of Afrikaners. I think that goes without saying. But what concerns me is if it is correct to take an approach which says that the defence and promotion of this language, this culture, this tradition should primarily be the responsibility only of the Afrikaners. I don't think so. Indeed I would argue, not to ??? but I think it's worth consideration that it is in our common interest, of all of us, that the defence and promotion of the Afrikaans language, culture and traditions, that we should all do it. It shouldn't be something that

should be put in one corner and one set of people, if you're taking the language, who then may have a light skin, then it becomes their fundamental responsibility to think that they have to defend that language. Indeed, I certainly would argue that, that is the quickest way to get an antithesis to this approach because you begin to isolate it, it's only a matter for one group to really do. Then looking very quickly at the report, because it's the first interim report of the Volkstaat Council, I need to pose a number of questions because again it seems to me a great deal of subjective animal has crept in here. On page 19 where you talk about "foreign persons entitled to citizenship of the Afrikaner Volkstaat" – I want to take you through this thing, because I need to be enlightened – "who actively share, practise and maintain the Afrikaans language, culture and traditions that will identify them." Now, I personally can identify with the Afrikaans language, culture and tradition, but I can't share it, so secondly, I can identify with it, but I cannot actively practise it. Certainly I can be part of a process to maintain it, but I certainly can't practise it. Now, you then make your definition of the citizen, which makes it impossible to determine objectively, it then becomes a purely subjective criteria. You then say, "who by descent belong to the Afrikaner people", alright, leaving that aside. You then say, "who feel bound to protect, practise and maintain the Afrikaans language, culture and traditions" which is more or less the same as the first sentence. Again, I would say, I would argue that I feel bound to protect and maintain the Afrikaans language, culture and traditions, but obviously not to practise it. I am not an Afrikaner. Afrikaans is not my language. What you are doing here is that you are producing very subjective criteria to determine an objective fact about

citizenship. Indeed when you say "who are accepted as Afrikaners by their fellow Afrikaners" is indeed in itself a problem where right now in South Africa... we know, we have a situation in which there are Afrikaners who consider themselves as boer who despise, or so they say, anything what they consider Afrikaners who come from the Western Cape and who regard themselves as the ??? if you like. Now, it's a subjective thing to say "who are accepted as Afrikaners by their fellow Afrikaners". It cannot be a criterion because how do you then go about determining these things? So, it seems to me that your notion of citizenship creates some very serious problems in terms of wanting to give this thing the kind of consideration that it would deserve. On the same page, under D, you then say "an individual registering as a Volkstaat citizen, accepts the duties emanating from such citizenship (that's fine). Such duties may be imposed only by the Volkstaat authorities." What does it mean? Does that mean, and I will come back to it later again, in relation to education in another town? Does that mean that those people who do not regard themselves as emanating from Afrikaner stock would then have to be accepted in position which states that ??? Volkstaat would be in the Afrikaans language? I am asking whether there isn't a consequence from what you are saying, that you are then saying: "??? it's not my work, this is your work" may be imposed only by the Volkstaat authorities. And that creates an additional problem for me. Then, on page 20, and the front of page 20 is around this state, you say it enough under 8C: "an individual may vote only for the government institutions of a specific constituent state or for the Volkstaat, but may not vote for the government institutions of more than one." Maybe I am

understanding it wrongly, so you must correct me if I understood it wrongly. As I read this, what this might mean is that you can... if you vote for the Volkstaat, then you can't go and vote for your central government. I might be wrong, but that's how it's written here. What it means is that you then say that, and I accept that it is genuine on your part, the Volkstaat, if it comes into being, would enable people, anybody to come and live in that Volkstaat. But what you are then saying is that if you want to come and live in this Volkstaat, you either don't vote for people who are going to sit on the Volkstaat Institution if you want to vote for the national government in South Africa, or if you vote for the national one you are not going to be entitled to vote for the Volkstaat authorities. Now, I think that's a very serious deposition and a ??? deposition. Secondly, I don't know then how it would combine with the fact that Mr de Jager said earlier that the Volkstaat is to remain part of South Africa and be part of the national institutions, but if I who am living in the Volkstaat and choose to vote in the national elections cannot then be expected to accept that Mr de Jager, who lives in the same areas as I am, is then my representative in a national institution. It is not possible, because I would be deprived of the opportunity to vote for him. So it seems to me that those matters certainly might need further refinement. And then the last question I want to put, and there are many other questions ??? more carefully, is that on the surface – and I say on the surface, I might be entirely wrong – very quickly looking at them there as defined in terms of the territorial part of the Volkstaat, it seems to me that what happens is that you take the main towns and then you exclude the townships, so I am going to open my



constituent's office in Klerksdorp this coming Thursday, like if I've get excluded out of Klerksdorp and then I must go open my office in Joubertin???. And lastly, ??? leave Klerksdorp alone, but it creates a problem because it means that what seems to have happened – and I say seems, I might be wrong – is that you took a pen and a map and took it right through where you thought a lot of Afrikaners are living and you took all of the main cities, so if you take the Western Transvaal obviously even if Klerksdorp is dying at this particular moment, it remains the main commercial centre for that part of the Transvaal. So you take it out, you put it in the Volkstaat and you leave Joubertin(???) there and Alabama and ??? Park. I am trying to understand how that can be justified in terms of then coming to the conclusion to say, as you seem to do afterwards, by a ??? of democratic ??? the Afrikaner therefore now constitutes a majority in this areas. Because all you've done, you've used an apartheid creation of this ??? segregation to justify a Volkstaat. I rather find it very difficult to accept. I am raising these issues because I think they should be part of the debate. It's the beginning of the debate, it's not meant to try to score any political points, it is trying to understand these things, so that in the end... to see what are the possibilities when we are examining this question. Thank you.

Mr Viljoen???

I'll attempt to reply to the last question then we can move from there, Chairperson. I think if you study the report carefully as Dr Pahad obviously has done, you will find that there are different approaches to the inclusion or exclusion or division of powers. I think he is quite correct when he says that in some instances, as indicated on the maps, in

order to be able to get a majority of Afrikaners within a certain delimitation, one would use that method of dividing towns. In other cases, we haven't done so. We have used, for example, in the Northern Cape, what we call a regional approach. But let me say I think this is also a serious attempt on the part of the Council to find some answers to this matter of the geographical dispersion of Afrikaners and the matter of majority population, but I must admit that this has not been... it's not in the form of a final proposition and we are in fact at the present moment also investigating the economic and financial and local authority consequences of these various options, so in that sense I can honestly say that we would welcome the comments that we can get, proposals in whatever form, and obviously we are busy with the process and we would certainly take note of those. You would find in the case of Pretoria, for example, that, that was done strictly on an Afrikaner language majority basis and certain of the suburbs are excluded and certain others included. So you would find that some of the eastern Pretoria suburbs, such as Brooklyn, Waterkloof, are excluded, but there are also others excluded, for example, Mamelodi, Atteridgeville and even Eersterust. But then again, the demarcation is not, wasn't done in so much detail and exactly as to represent a final proposal and obviously this is also subject to further investigation because one must assume that there are also other practical considerations with regard to where a boundary or a border should in fact fall. Thank you, Chairperson, I would like to leave it for the other gentlemen to continue.

Adv. de Jager

Mr Chairman, I really appreciate Mr Pahad's attitude and I think he has asked very pertinent questions. Looking at

page 19 as you've referred to certain elements being stated there, I would ask you to bear in mind that what we are looking for is self-determination (mike off for a short spell) we are not looking for self-determination of everybody living there. We are looking at the minority and that's what's been proposed this morning: a community or a people entitled to self-determination to a certain extent, limited self-determination. If you don't belong to that community, there won't be self-determination of the community, you'll be entitled to individual rights, fundamental rights. That's not tampered with. But if you want to look at self-determination of a community, there should be a definition of that community otherwise it's not a defined community so how can you say it's self-determination for that community? But as far as the rights of other people living there, we say "yes" all South African residents formerly resident within the Volkstaat, that they would have citizenship and others coming in at a later stage requiring the right to become citizens. What we are proposing on page 20 with the "you can't vote for more institutions than one": If I am living in the Volkstaat, and I don't want to vote for the Volkstaat, I could choose to vote for Eastern Transvaal for instance. But I can't have two provincial rights: I can't vote for more than one province, but I'll always have my vote for the national government and that's all that's being said in C. If it's not clear, we'll have to look at it, but that's the intention of... nobody can have two provincial votes because then it will be he will have more rights than the other person. But it is clear we've got a transitional period of years and it is possible for an Afrikaner living outside the Volkstaat to vote within the Volkstaat, but then he relinquishes his vote where he is because he can't have two votes. But in this

transitional period in order to establish a... to give him the opportunity if he wants to move, he could move there, but he will relinquish his vote afterwards. We've got a transitional period inserted here in order to have a "gladde oorgang"<sup>1</sup>. As far as the map is concerned, it is an indication where a concentration of Afrikaners is, but as Mr Viljoen said, it is not a demarcation, that should be done in consultation with other people at the ???. I don't know whether there are any other questions that I haven't answered?

Mr Viljoen???

Chairperson, could I just say that with regard to Dr Pahad's reference to the subjective criteria, maybe this is something for a more personal one-to-one discussion just to make sure that we understand what exactly he is aiming at. I would like to say that the Volkstaat regards the potential market for citizens of the Volkstaat amongst Afrikaners as the total 3 million according to the 1991 census. There is no exclusivity. We have attempted here to give some criteria which one could use in order to determine what that would be, but once again it is a matter of, as Advocate de Jager indicated, to voluntarily, in fact, form part of this group and this is not an attempt to be exclusive in any way. Certainly not with regard to the total number of Afrikaners. We all realise that in the past there has been a tendency to be exclusive and say: well, the boere Afrikaners are a small section in the Northern Transvaal, they would qualify. That is certainly not the intention of what we have here in the report.

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<sup>1</sup> smooth transition

Chairperson Ladies and gentlemen, we have four speakers left, if we could round up the discussion. We'll come back to it again in the next Theme Committee. I've got Mr Rabie, then Mr Ramusi, then Mr Taunyane. The last one would be ???

Mr Rabie Mr de Jager constantly referred to in his presentation, the Afrikaner Volkstaat will be non-discriminatory and everybody can become a citizen. Now I don't understand that because on page 37 of your interim report you demarcated southern Cape as part of the Afrikaner culture, but you have excluded a portion of that part of the country where 87% of the people speak Afrikaans. Now, if your proposals are non-discriminatory, why did you leave out such a large section of Afrikaans-speaking people?

Chairperson Let's take all the questions, Advocate de Jager, then you can reply. Mr Ramusi?

Mr Ramusi Comrade, Chair, may I know where these gentlemen come from, the Volkstaat people, we follow them there. If anything happened to them since the last election, it might have convinced them that they are not safe to live with the rest of us. If so, what is it that really disturbs you so much when the whole country is attempting to reconcile and get together, you would rather pull away? What is it? Who upset you? Please try to tell us because it is very difficult to understand why you have come with such a bold move, moving away from all of us?

Chairperson Thank you. OK Mr Taunyane???

??? Thank you, Mr Chairman. Mr Pahad might not doubt the

integrity of the Freedom Front, but I do. I am in the National Party, which is an Afrikaner Party ...

Adv. de Jager

On a point of order, Mr Chairman. I don't think the Freedom Front is part of this discussion. This is the presentation of the Volkstaatsraad and not the Freedom Front.

???

I withdraw my remark. My question is all the things which have been addressed by the Volkstaat, the ANC, the National Party, PAC, even the Freedom Front, is addressing all those things in parliament; the language, culture, schools, there is an avenue, which is the National Assembly, why all of a sudden now do we have the Volkstaat Council thinking that these things would be addressed better outside this structure which we have just formed? And the other thing to come back to is we are building a rainbow nation and which was ??? which has been happening on Saturday, and all of a sudden here we hear people telling us that no, we want to be outside that, meaning that we don't believe in your rainbow concept. I want to know from them, what is it, how are they going to address that because questions have already been asked here.

Chairperson

Thank you, Ms ???

Ms ???

Thank you, Chair. As one of the speakers said, this is the beginning of the debate and we are still going to debate, but now let's be very clear what are we going to debating because during your presentation there are a lot of contradictions of what you are saying orally and what is written here. I just want to take one example, on page 5 of

??? examination. You have just said that you are being taxed by the central government, but on this page, point 11.2, subsection (xi) where you are saying that the levy and the collection of taxes to enable it to perform its legislative and ??? functions, meaning the Volkstaat, but you have just said you will be taxed centrally. Now, I am just citing one, but I notice contradictions on what you are saying orally and what is written. And this makes us doubt very much the ??? of your coming ??? a very false view in order that you have got other hidden agendas then we are looking at the whole thing with a very dim view. Thank you.

Adv. de Jager

Chairman, could we start with the last question. Taxes within a Volkstaat. You've got different kinds of taxes. You've got provincial taxes, you've got municipal taxes, you've got national taxes. In order to have a provincial government you need money to pay salaries for your people working there. In fact in Eastern Transvaal, in Northern Transvaal, in all the provinces of this state, people must be paid, teachers must be paid, people working there should be paid salaries and for that taxes are needed and that's what's created here. It's not all the taxes going there. It's extra taxes. We all pay extra taxes somewhere, whether it's in the municipality, whether it's in the province, or central government. So it's not excluding. It's not take all the taxes, if I could explain it like that. As far as the second one, he said why should we advocate a Volkstaat outside parliament? We used this avenue before, we didn't go standing on the street corners and shouting for Volkstaat. Fortunately you've created this avenue and we came to you. We are not shouting outside. We are discussing it with you and we are trying to tell you what we think. We are not

putting out bombs outside, you see, we want to do it peacefully. We want to do it through you in association with you, that's why we are here. As far as the rainbow nation is concerned, the rainbow is a beautiful phenomenon with it's different colours not mixing, but lying next to each other, working together. You ask who has disturbed us, why are we trying for a Volkstaat now? We've done the same thing under the previous government. They also disturbed us, perhaps more than you do. But that's not the question. We are trying in all honesty to see whether we can contribute to a peaceful South Africa where we won't have ethnic conflict in the future. Let's try and accommodate each other. If other ethnic groups don't want it, nobody should force it on them, but we in all sincerity ask you to discuss this. Mr Rabie says 87% of the Afrikaans-speaking people are excluded. Sir, they could come and say: we want to join; we want to be part and parcel on a tax basis, for instance, to pay for our culture. They are not excluded. We can't exclude anybody because then it will be against the fundamental rights. So it depends on freedom of association, whether they want to associate with us or with the Afrikaners, or whether the Afrikaners want to associate with them, it's on the basis of free association, a fundamental right of everybody.

Mr Viljoen???

May I just add something, Mr Chairperson? In connection, Mr Rabie, with your question, I think when you refer to discrimination, one should actually look at what we intend doing inside a demarcated area like granting equal status, equal citizenship and so forth, but I think what you are referring to is the differentiation between call it white and brown Afrikaners because you say we are excluding 80 odd



per cent of Afrikaans-speaking people. Now, we must realise obviously that the demarcation was done with the intention of looking at areas where Afrikaners in terms of the definition that we have used, are in the majority, what sort of things they represent so for that reason there is a differentiation, but it is not meant to be discrimination as Advocate de Jager is saying, there is a freedom of association and obviously, there are differences between different Afrikaners, as much as there are differences between the Irish and the Welsh as was mentioned this morning. There was another question, Chairperson, the question was what has disturbed us since the last election that we now all of a sudden want to move into a Volkstaat? Chairperson, this is also a misconception. For more than fifty years, I would say, I personally have been involved in planning towards a Volkstaat, the reason being that Volkstaaters have seriously believed that minority rule should come to an end, would come to an end. The question is: what should replace it? As we see it, majority rule in terms of the present Constitution and the so-called democracy is not a solution for the Afrikaners. For that reason the Afrikaner has always seen a different solution in the form of a Volkstaat and as we have indicated, we don't see this as our exclusive right. We believe that other groups and peoples should also have that right, but we believe strongly that there is not much of an alternative of Afrikaners to be in a position where they can govern themselves and look after their own interest, but in a Volkstaat.

(mike off)

??? I think so, Chairperson.

Chairperson On behalf of Theme Committee 2 ...

Mr Ligege Sorry, Mr Chairperson, can't we try and ??? ??? then we come back and we talk with them ??? because this submission was given this morning and we didn't read through it. Can't we call them back again?

Chairperson I've agreed to say something along those lines, but on behalf of the committee, first let me thank the panel for coming along to explain how they see the establishment of a Volkstaat. Mr Ligege is right, I don't think we can really try this whole scenario in one short session of this nature and the Core Group will consider it at its next meeting so that we can see whether we can invite you again so that the other questions can be asked. ??? if that needs to. That then takes care of the workshop. We carry on with our meeting that started this morning to do with the drafts ??? of the ??? government. No, the meeting is not adjourned, only the workshop, and it carries on with our Theme Committee meeting.

Chairperson Professor Steytler, are you ready? ??? on page 6. Ladies and gentleman, can we start please? Page 6, and the question debated was the question of the quorum that it should be in the Constitution. Dr Pahad? No, no, I don't think ???. The gentleman next to Dr Pahad, please! We are on page 6 and the question was asked about the quorum. Has any progress been made. Can we approve that page as it is? Yes, agreed?

???

Mr Chairperson, just the language thing. I don't know if I'm correct with the language. The language does not seem to be right. If we are saying there that questions should be adopted by majority of the members present and voting, that is what the required majority should be for ordinary legislation there. The majority of the members present and voting; I must refer to the question of ??? whatever else. That is something that must be dealt with by the quorum requirements.

Chairperson

Professor Steytler?

Prof. Steytler

Mr Chairman, I think it can be so done and I deleted that "of half" and really that should be visited in the previous page under Section 138, the quorums, where the same issue will be dealt with in terms of the National Assembly so we would follow the cues of what is decided in terms of the National Assembly, issues pertaining to quorum.

Chairperson

As for the rest, can we approve? Agreed to. Page 7. Any comments on page 7? Can we approve? It is approved. Page 8. Any comments? Can we approve? Approved. Page 9. It appears to be a fair reflection.

???

Chairman, sorry to take you back. 146, you are saying that we approved, but not what we approved on the agreement because one person says five-year term of office and another says four years. What are we approving here? Which of the two do we agree to?

Chairperson

The report stipulates the position of the DP. We are approving the wording thereof so that they can argue their

case in the Constitutional Committee, whether five years or four years. Page 9. Agreed to? Page 10. Agreed to? Thank you. Can I ask your guidance here? The rest of this document is a brief report about the submission that came in. Can I put all the pages together or do you want me to go page by page?

???

I think we should just put them all together because we also got them today. I do have some problems. Either the Speaker is saying going to the Core Group or we can directly indicate to the technical experts or the administrative staff our problems. I just want to make a general comment on not this particular one, there is another one. We are facing the same problem we faced before and I think it is wrong, Mr Chairman, that the Democratic Party in Gauteng is put on the same status as the Democratic Party sitting here and we've said this before that we are not to do that. You can separate them out, we're individuals. It's not this particular one, there is another one earlier that they've got. The one that we got last Friday in which when you are talking about the submissions and that you are giving them the same way and it's wrong. We had agreed in this Theme Committee that the technical experts are not to do that. We are guided by the Democratic Party sitting here, not by the Democratic Party sitting in Gauteng. That's a matter they must resolve between themselves and I really think we need to be very careful and we don't give them equal weight.

Chairperson

The last time this matter cropped up, Mr Andrews, ??? too that DP nationally is the submission we must take cognisance of because the DP Gauteng is not a separate

political party at all and we've asked the technical experts to reflect it accordingly.

Mr Andrews??? Mr Chairman, we tried to do that. If you look at page 13, that has been practised in the bulk of the report that we've done. We didn't indicate parties, but then we tried to make three differences or distinctions, one is party submissions, then institutional submissions, and we tried to separate the CPG as a separate body

TAPE 5

Theme Committee 2 - 26 JUNE 1995

Chairperson

Professor ~~Readt~~.

*Raath*  
Prof. ~~Readt~~

Mr Chairman, may I start my answer with the last remark about the mechanisms. It has become clear to me during the discussions that over the last couple of years we have had a lot of references to liberal theory, liberal views on human rights, liberty in general and the fact that liberty should be one of the highest principles in the new constitutional order. It has also become clear to me that with liberalism is meant individual human rights. A very conservative and a very positivistic approach comes out in addressing the problem of collective rights and of self-determination and even of secession. This is more than a paradox. I think this is a fundamental problem in the thinking of many people in our day and this is an inconsistency which, I think, should be addressed in order to solve the complex problems we are dealing with here. Therefore I would like to say that one should not start with an approach of which mechanisms are necessary to solve this or that particular feeling of injustice or insecurity or lack of freedom. One should apply liberal theory in all its facets, one should have a libertarian approach not only to human rights regarding the individual but to the whole political order. One should also interpret the whole problem and question of secession and self-determination and all its facets from a consistent liberal perspective because, I think, Mr Chairman, that there are still too many fascist approaches to the state inherent even in proponents of liberalism and their views on human rights. I think that is

saying the arguments are without flaws.

Chairperson

Mr ???

???

Mr Chairperson, ??????????????????

...the dichotomy of the economic situation in South Africa. ??? is the Volkstaat only. The nation South Africa. ??? the of the Volkstaat race during apartheid era were the dominant system of self-determination state because the homelands of the Shangaan, the homelands of the Vendas, the homelands of the Zulus etc. etc. and we are ??? the same thing if we allow the situation, being that the Afrikaners can have their Volkstaat ??? and then the Vendas and the Tswanas etc. etc. and then we are back to square one, where autonomy should be united to ??? the new South Africa. Thank you.

Chairperson

Professor Raadt?

*Raadt*

Prof. Raadt

Mr Chairman, may I respond by saying that we should be very careful in drawing parallels between the homeland policies and the possibility of evolutionary and negotiated secession because the homeland policy was more in the line of a policy of expulsion than it was of secession and we are talking about secession here and the possibility and not about expulsion. So, from a liberal point of view this means that if a cultural entity wishes to have full political autonomy, then it would not be in line with liberal theory to take that away from them, of course, if it is morally and otherwise acceptable. And I think that the norms of legitimacy have already been highlighted, so I needn't go into that, but I want to emphasise that the homeland policy

cannot be fitted into the whole idea of secession; it is something totally different.

Chairperson Mr Maluwa and then Mr Lebona.

Dr Maluwa I am just intrigued by Professor Raadt's consistent references to liberalism and so on. Maybe I understand a slightly different meaning, I just want to say that we should be careful when we talk about the national democracy and striving to extrapolate all sorts of conclusions from that. Western Europe archetypal legal and democratic states: Spain has problems with the Basques, Slavs have these problems, and so on and so forth; a legal regime does not seem to have ??? yet, how are we sure that perhaps this undying adherence to international patriotism is the answer here? Just a request for clarification. Thank you.

*Raadh*  
Prof. Raadt

May I briefly say, Mr Chairman, that at the basis of all these arguments is the whole question of freedom of choice. If we say that freedom means that there are no other people deciding for you, then it also applies to this in a political sense, with the only difference that we have groups of people here - cultural groups as such - and if we are consistent about liberal democracies, then we should also apply that to the decisionmaking of groups, bigger and smaller ones, taking into recognition, however, the moral and the national tenability of creating separate states for such people, but that the whole question of self-determination is, or should function, on the same basis. Many international authors have come up with this over the last couple of years, have the same basis, namely freedom of choice, but then we should be explicit and also apply this



reconcilable, and if so, how do you see reconciling them productively? We do have to be guided by this.

*Raah*  
Prof. Raedt

Mr Chairman, I think it is important to note that Constitutional Principle 34 was added later to the Constitution; it wasn't formulated at the same time as the other Constitutional Principles or even the other sections of the Constitution. So we have here as a result of the compromise, and I just refer to the agreements between the government and other political parties... the result was Principle 34. And to a certain extent – let me say to a large extent, Mr Chairman – there are difficulties in interpreting these two facets of the Constitution. Of course, this is what the paradox, which I did mention, is all about; in other words, to reconcile the principle of self-determination, may I add very widely formulated in principle 34, with that of the other sections of the Constitution. I think we must emphasise that this Principle 34, which I think is a sensible principle, should be supported by provisions in the body of the Constitution, as I have pointed out, which reflect first of all a federal system of government as point of departure for accommodating the political aspirations of ethnic groups. But then, of course, Principle 34 should be formulated in such a way that the relationship thereof, as I've said, with other Constitutional Principles, becomes clearer to the extent where there can be no uncertainty of the fact that the notion of self-determination also includes geographical autonomy, of which we have said a lot. But then the important thing is that such formulation should be complemented by provision in the Chapter of Human Rights and I think we are all sensitive to the fact that there should be a normative framework within which this full political

Afrikaans-speaking people are and there in Pietersburg, there in the Free State, all over the country, ??? the common country have left out those areas which could form part of the Volkstaat. Now my question is will these other ethnic groups be entitled also to do a similar thing as the Afrikaans Volkstaat people are doing? Where do we end? Will we not be breaking up this South Africa, which, as Professor Dugard has said, came about as a result of the agreement in 1910. That is what we are basing, that is our starting point, whether we like it or not, Mr Chairman. 1910 is our starting point, which has brought about the colonies, the four colonies of South Africa, into what was then the Union of South Africa. The Afrikaans-speaking people want to dress this all up and take us back to the separate development policy. Will the other ethnic groups in South Africa also be entitled to demand like they are demanding? Thank you.

*Raadt*  
Prof. Raadt

Mr Chairman, it is going to be very difficult to answer the speaker because I don't know at which stage he came in because I don't want to go through the whole exercise again. May I just say that it is exactly this approach to nation-building and to the emphasis on unity and the unitary state which makes many people, and many peoples in South Africa, very sceptical about the future because this is not a libertarian approach to the rights and the freedoms of all the people and peoples in South Africa and that I want to emphasise. Secondly, Mr Chairman, there is – and in my presentation I did also emphasise this – no duty upon anyone to accept the responsibilities of showing and proving that such an ethnic group or groups want to determine themselves within a geographical boundary. I

think is wrong. You can't make that logical conclusion from that basis because, as I said, the right to freedom of choice in itself has limitations, they are not absolutes in that sense. Sir, let me say this, that of one would discuss this anywhere else, sensitivity to the national question, I think, is critical. All of us have to be continuously sensitive to the national question because insensitivity will lead to a great deal of problems, but it seems to me that what's been happening here is that the discussion about the national question in general terms, in South Africa and elsewhere, has basically been around the question of culture and language, as if the class factor doesn't matter. Well, ~~Yousis~~ Carriem earlier spoke, and quite rightly, about contradictory processes, but there is another process that has been going on for centuries: the formation of classes; class interests, which transcend narrow national or national and ethnic interests and therefore a general approach to this question can't just be limited to one or two factors, they have to have a broader outlook. And that raises the question that, of course, it is possible to share the same language and religion, but have different culture and traditional attributes. We can't start from an assumption that because you share the same language and religion, you necessarily share the same culture and tradition attributes. South Africa, I think, is a good example in the case of what we call the Coloured people. They by and large share the same language and religion with white Afrikaans-speaking people, or in Britain with the Scottish and Welsh where they share a similar language to the English and a similar religion, but who regard themselves as having certain different cultures and traditional attributes. So, I think that this approach that has come up here is to me too narrow and too one-sided and

TAPE 6

Theme Committee 2 - 26 JUNE 1995

...come back to what Dr Maluwa said. And this is the question of human rights that somebody else's rights cannot be that circumspect that they will actually give ??? democratically human rights to somebody else so that even in this country, if you want to have a separation you would need to come back to that, that element is clear. And secondly, the question of colonial borders, and that's what I'm going to add, then, Mr Groenewald, it doesn't become ???, it doesn't become 1899-1902 for the Anglo Boer War. You might as well then go back to 1651 and try to work your way backwards and say: what would have happened to South Africa if Jan van Riebeeck actually hadn't set foot on South African soil? You can't do that. It is impossible, it is ridiculous. You'll never land up anywhere else, you've got to go from a given and in our case, the given has to be 1910, it cannot be anything else and I certainly accept your Orange Free State Republic's excuse that the Indians ???

Chairperson

Professor Raadt?

*Raadt*  
Prof. Raadt

Mr Chairman, there was a reference by the speaker to the philosophical position. There are two remarks about this. Let me say that I am quite in agreement with him that there are no absolute rights, but it's one thing recognising the right of self-determination, but limiting it in a realistic manner, but it's a different matter altogether like he has done, and that is denying the existence of such an ???, because this has been one of the major contributing factors to disruption and to violence in the international world,

is a progressive step in a sense. But what I would like to know is, if that possibility is there that, that Afrikaner Volkstaat will have a minority of Afrikaners, that they are prepared to accept the majority, then why not live with the majority in the rest of the country? This, I think, is an important aspect because what we are trying to avoid in this country is to revert to Bantustan or homeland policies because it seems to me that is what we are getting back to, the question of little ethnic pockets created. But here we are saying that when we say that we accept the fact that if other people want to come and live there, they are free to do so, then we are accepting the fact there that South Africa is open to all, it is not only for the ethnic groups in that particular place. I just want to know whether I have heard him correctly.

Adv. de Jager

You've heard me correctly. It is a question of freedom of association. I don't think that in Verulam, for instance, the majority of people would be Zulus. People flock together out of free association that's why somebody said there would a Jewish suburb somewhere because people of the same kind want to live together. Give them the opportunity, it's freedom of movement. If I want to go and live among English-speakers, I could do so, but I'd like to live amongst my own people. Make it possible for me, and give me some rights there. That's all we are asking. Not roles conflicting with other people. That's all we are asking. I don't think it's too much, Mr Chair.

Chairperson

Mr ~~Dumela~~?? And then Mr Mtshali???

Mr ~~Dumela~~

Thank you, Chairperson. I am worried by one thing and that is the economical side. In this country it is well-known that whites are still controlling more than 90% of the wealth of this

Dr Jooste

Chairperson, I just wish to add that the first Constitution of a Volkstaat would have to be approved by the South African government and I should think that, that Constitution, that Bill, that Law would have to pass the Constitutional Court. So the question of keeping in the old apartheid discriminations and so on are not likely to occur and if they should be introduced afterwards, I think that the national community will react to that in such a way that it won't be considered. I just wish to say also that the section dealing with non-territorial self-determination has been included in this report, on page 106, from there on. I think the evidence we got suggests that Afrikaners are no different from other peoples; you get all types of ideas among them as you get among other peoples. Some of them will not settle for anything less than a Volkstaat, others will be satisfied with autonomous areas with limited self-determination, others may feel that if they have cultural self-determination, they can manage their own cultural affairs and schools and so on, others will not want anything of that, they will simply want to be citizens of South Africa, they will not join any of these. I think all these possibilities for self-determination are dealt with in the report.

Chairperson

Dr Pahaad?

Dr Pahaad

Many of my questions are going to be as part of a comment. First of all let me say that we certainly accept the integrity of the members of the Volkstaatsraad. The integrity of those members is not in question at all. What did, however, concern me, listening to the three representatives, was the very subjective way – and I'll come back to the subjective animal later – in which they are