

CONSTITUTIONAL PUBLIC MEETINGS

BRIEFING NOTES

FOR

THEME COMMITTEE MEMBERS

KWAZULU/NATAL

EMPANGENI : 26 AUGUST 1995

14:00

CIRCUS SITE

CPMs

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1. CONSTITUTIONAL PUBLIC MEETING : 26 AUGUST 1995

VENUE : EMPANGENI : CIRCUS SITE : 14:00

A. PURPOSE OF MEETING

- i) Management Committee Member of the CA or Chairperson of the meeting to brief Community on the Constitution-Making Process
- a) See item 4 on the Meeting Programme and Agenda.
- b) For briefing notes on CA process see point 2.
- ii) Theme Committee Members to give input on the contentious issues being dealt with in their Theme Committees.
- iii) Allow the public to give input.

B. CONSULTATIVE MEETING

An advance team consisting of the Project Manager - Provincial Liaison and Project Manager - Operations Team briefed a consultative meeting of representatives of the following organisations:

◇ ***Representatives of the following organisations attended the consultative meeting:***

- * University of Zululand
- * Department of Housing and Local Government
- * Zululand Liaison Forum
- * South African Communication Services

◇ ***Representatives of the following political parties/organisations were invited but did not attend the consultative meeting meeting:(The SACS regional office : Durban has also done a follow-up to ensure that all political parties and organisations are informed of the CPM)***

* Political Parties

- ANC
- ACDP
- DP
- IFP
- NP
- New Democratic Movement

* **Organisations**

- Empangeni TLC
- Ngwelezane Town Council
- Madlebe Tribal Authority
- Somopho Tribal Authority
- Ubiso Tribal Authority
- Zululand Joint Services Board
- Agricultural Community
- Business Community
- Church/welfare organisations
- Organised labour
- Civics
- Christelike Maatskaplike Raad
- COSATU
- Empangeni Afrikaanse Sakekamer
- Empangeni Business Ratepayers Association
- Empangeni Christian Centre
- Empangeni Muslim Society
- Empangeni Women's Institute
- Enseleni Development Council
- Eskom
- Felixton - Kwambonambi Mill Group
- Felixton Township : Tongaat Hulett Sugar Mills and Estates
- Northern Natal Community Based Development Programme
- ZUCOB Empangeni CBD Business Ratepayers Association
- Zululand Joint Services Board
- COSATU

C. **COMMUNITY PROFILE**

- * **Geographical** : Urban, semi-urban, Rural disadvantaged, with political violence (IFP/ANC).
- * **Area : Age** : Full spectrum. IFP stronghold (direct link to Ulundi)
Sensitivities : land reform - explosive situation, water problem and poverty in rural areas
- * **Target Audience** : *Language* : Zulu, English and Afrikaans.
Literacy level : full spectrum

MEETING PROGRAMME AND AGENDA

CONTENT OF PROGRAMME	PERSON RESPONSIBLE	TIME ALLOCATED
1. Pre-meeting briefing	Chairperson (facilitator)	30 minutes
2. Welcome	Mayor	10 minutes
3. Introduction	Premier / MEC	10 minutes
4. Constitution-making process Overview and questions on clarification	Speaker (Chair or Deputy Chair of the CA or Mancom Member) or Chair of Meeting	10 minutes
5. Input from Theme Committee Members	One TC Member from each TC to give input on contentious issues being discussed. Issues on which the public's input is specifically sought.	6X10 minutes for each TC: • 5 min input • 5 min translation
5. Input from Public	To be facilitated by Chairperson of the Meeting	85 minutes (subject to change according to situation)
6. Closure	Facilitator	5 min

2. OVERVIEW ON THE CONSTITUTION MAKING PROCESS

In April 1994, you voted for a new government in the first democratic elections in our history.

A constitution is the highest law in a country. It says what rules the government must follow in running the country.

At the moment we have an interim constitution. This will be our constitution until April 1999. After April 1999, there will be a new constitution to guide future governments on how you as the voter want the country to be run.

Like the interim constitution, the new constitution will talk about things such as:

- your right to be treated equally as a person;
- your right to speak freely;
- how many members of Parliament there should be;
- the powers of national, provincial and local governments;
- how the courts and police should work.

2.1. What is the Constitutional Assembly?

The Constitutional Assembly (CA) is the body which has the job of drawing up the new constitution by May 1996.

Your vote in the April 1994 elections helped to decide which parties should sit in the 2 parts of the new Parliament:

- * the National Assembly, with 400 members, and
- * the Senate, with 90 members.

These 490 people, from 7 different political parties, now make up the Constitutional Assembly.

The Constitutional Assembly has created six groups of members each of whom will deal with a different subject when drafting the constitution. These groups are called Theme Committees and they deal with inputs and submissions from the public. Theme Committee 1 deals with the Character of the State, Theme Committee 2 deals with the Structure of Government, Theme Committee 3 deals with the Relationship between the Levels of Government, Theme Committee 4 deals with Fundamental Rights, Theme Committee 5 deals with the Judiciary and Legal System and Theme Committee 6 deals with Specialised Structures of Government.

2.2. What are the Constitutional Principles?

The Constitutional Principles are those principles which the Constitutional Assembly is compelled to include in the final constitution.

2.3. Why are the Constitutional Principles important?

The constitutional principles are important because if the Constitutional Assembly does not take these principles into account, the Constitutional Court can declare the new constitution invalid.

2.4. Examples of the 34 Constitutional Principles

There shall be:

- A recognised right for all people to fair labour practises and of employers and employees to join employer organisations and trade unions and to engage in collective bargaining;
- Security forces that function in the national interest and do not further or prejudice party-political interest;
- Universally accepted fundamental rights;
- Diversity of language and culture
- Equality in law and equitable legal process, including affirmative action.

2.5. Why take part in writing the New Constitution?

It is not just the members of the Constitutional Assembly who will decide what goes into the new constitution.

The Constitutional Assembly (CA) is asking you as a member of the public to say what you would like to see in the new constitution. So you now have a chance to tell the CA how you think the country should be run and what rights you want.

We must all make sure that we speak up now because the constitution affects all of our lives. And also because we will all live under the new constitution for many years to come.

2.6. How you can get involved?

Apart from this meeting, there are lots of different ways that you can get involved in building the new constitution. The Constitutional Assembly calls its programme of public involvement the **Public Participation Programme**.

A. You can:

- talk to your friends and neighbours, your local community or religious organisation, your union or your political party;
- look out for pamphlets and posters advertising community workshops;
- listen to the radio;
- watch TV;
- attend seminars and or conferences that deal with special topics like womens rights, the public service and land issues.

You can also make direct contact with the Constitutional Assembly by:

- Writing down your ideas and proposals, and then sending them in to the CA [box: Post to Executive Director : Constitutional Assembly, Box 15, Cape Town 8000, or fax to: 021-4614339];
- Phoning the CA if you are not sure about how to send in your ideas [box: Phone the CA at 021-245031 and ask for Extension 2273];
- Arranging a visit to the CA by your organisation or union to talk about your ideas and proposals.

2.7. What happens to your ideas?

The inputs that you make in writing are sent to the relevant Theme Committees.

The inputs that you make verbally here today are recorded.

2.7.1. They get typed, translated and copied

2.7.2. They get filed, it is decided which part of the constitution they belong to, and they get summarised

2.7.3. Your full original proposal and the summary goes to one or more of the 6 **Theme Committees** (the groups working on the different parts of the constitution)

2.7.4. The Theme Committee draws up a report about the proposals received and sends this to the **Constitutional Committee**

2.7.5. The Constitutional Committee, made up of the 6 political parties of the Constitutional Assembly (CA), then debates these reports

2.7.6. The final debate takes place in the whole CA with all 490 members

2.7.7. The CA's decisions are sent back to the Constitutional Committee for **drafting**

2.7.8. A draft of the new constitution is then sent out to the public - you get a second chance in workshops and meetings to say what you think

2.7.9. The CA makes changes to the draft constitution and then passes the final constitution (**the adoption** of the constitution)

2.7.10. This new constitution is sent to the Constitutional Court to be checked (**the certification** of the constitution)

3. AIM OF THE CONSTITUTIONAL PUBLIC MEETINGS (CPM'S)

The aim of the Constitutional Public Meetings is to involve and engage community organisations and the public at large in the constitution-making process. The public will have direct access to their elected representatives and will be invited to give individual input on constitutional issues.

4. ROLE OF PROGRAMME PARTICIPANTS

4.1. Mayor

The Mayor should:

- Use his/her discretion as to whether the event should be opened with a prayer;
- Welcome the audience and dignitaries to the event;
- Introduce the dignitaries to the audience;

4.2. Premier / MEC

The Premier should:

- Introduce the member of the C.A
- Inform the audience of the **non-party political nature** of the meeting;
- Emphasise the importance of the Constitutional Assembly;
- Explain the role of the members of the Theme Committees present; (their role is to make input on contentious issues and hear inputs from the public)

4.3. Chairperson / Facilitator

The Chairperson should:

- Be responsible for the pre-meeting briefing;
- Take over the welcome or the introduction if the Mayor or the Premier MEC does not arrive;
- Give an overview on the constitution-making process and allow questions of clarification to be directed to Theme Committee members (this is only for those situations when there is no specific speaker from the Constitutional Assembly);
- Work through the order of the proceedings and the time constraints of each phase of the meeting;
- Explain how the inputs will be dealt with;
- All Theme Committee members will make their input as per contentious issue and inputs will be solicited after all of them have been completed.
- Close the meeting after inputs have been received

* Note 1

Public inputs will be electronically recorded;
Written inputs will be collected after meetings;
Translation to be provided.

* Note 2

For briefing the public on the constitution-making process and contentious issues (**see annexure A**)

- Probe audience to participate;
- Sensitize Theme Committee members and the public to consider the translator when making inputs;
- Reiterate value of inputs;
- Ensure an even spread in receiving oral inputs;
- Ensure that no comment on inputs is encouraged from any member of the Constitutional Assembly;
- Indicate to the audience what will happen to further inputs;
- Every input will be recorded and will be channelled to the relevant Theme Committee;
- Indicate to the audience that written inputs can be made at the venue and placed in the box;
- Inform the public that written inputs can also be made to the CA in Cape Town at the following address:
**The Executive Director
P.O. Box 15
Cape Town
8000**
- Keep the running order of the meeting;
- ***In the event of an unforeseen threat to security, the Chairperson in consultation with the silent chair will make the final decision to call for security. The Chairperson will thus have to identify her/himself beforehand to the security staff in order to familiarise them with the line of command.***
- Evaluate the process and give feedback to the regional director of IMMSA in the Western Cape, Susan Hayter.

4.4. Speakers (Chairperson or Deputy Chairperson of CA, Members of Mancom or other members of CA)

The role of the speaker is to:

- Give a brief overview of the constitution-making process and field questions on clarification only.

* **Note**

For briefing document on constitution-making process see POINT 2.

4.5 Members of the CA / Theme Committee Members

The main role for members of the CA / Theme Committee members should be to actively listen to input from the South African people on what they wish to see in their final constitution.

- A member from each of the Theme Committees will have an opportunity to brief the public on the contentious issues being dealt with on his/her specific Theme Committee; **See Annexure A**
- Theme Committee members should decide before the meeting or by no later than the pre-meeting briefing which member of the specific Theme Committee

will make the input. This is in order to give the relevant member an opportunity to prepare;

- To facilitate the process, specific time frames regarding input should be adhered to - this will ensure that the purpose of Public Participation is not limited in the process;
- **Please note the constitution-making process is a non-party political process.**
- **Kindly use clear and simple language when making your input**

5. ANNEXURE A :

THEME COMMITTEE INPUTS - ISSUES TO BE RAISED BY THEME COMMITTEE MEMBERS

⇒ THEME COMMITTEE 1: CHARACTER OF DEMOCRATIC STATE

◇ Headings of reports tabled

- Democracy and Character of the State
- Equality and Single Sovereign State
- Supremacy of the Constitution
- Accountable Government
- The Economy
- Representative Government, Citizenship and Suffrage

◇ Some contentious issues

- Should the State be structured along federal or unitary lines?
- To what extent should the Constitution provide for self-determination?
- Should religious office-bearers hold offices of State?
- What should the minimum voting age be?
- Should non-citizens have the right to vote?
- Traditional Monarchies: to what extent should they be recognised?

⇒ THEME COMMITTEE 2 : STRUCTURE OF GOVERNMENT

◇ Headings of reports tabled

- Separation of powers
- National Assembly and National Executive
- The Electoral System: National Level

◇ Some contentious issues

- Should Senators be elected/ nominated by and from Provincial Legislatures?
- Right of recall - can elected representatives be recalled?
- What should the duration of a politician's term of office be?
- Should there be more than one Deputy President, involving other parties and/ or a Prime Minister?
- What should the period between elections be?

⇒ **THEME COMMITTEE 3 : RELATIONSHIP BETWEEN GOVERNMENT LEVELS**

◇ **Headings of reports tabled**

- The Nature and Status of the provincial and Local Systems of Government
- National and Provincial Legislative and Executive Competencies

* Report on Local Government still to be completed

◇ **Some contentious issues**

- Should residual powers lie with the national government or the provinces?
- To what extent should the national government be able to exercise override power over provinces?

⇒ **THEME COMMITTEE 4 : FUNDAMENTAL RIGHTS**

◇ **Headings of reports tabled**

- Nature and Application of the Bill of Rights
- Human Dignity
- Servitude and Forced Labour
- Freedom and Security of the Person
- Freedom of Religion, Belief and Opinion
- Freedom of Expression
- Academic Freedom
- Access to Information

◇ **Some contentious issues**

- Vertical and horizontal application of the Bill of Rights
- Should illegal immigrants enjoy the right to freedom and security?
- To what extent should the Constitution limit/ allow religious practices?
- Should the right of freedom of expression include the right to censorship?
- To what extent should the public have access to information?

⇒ **THEME COMMITTEE 5 : JUDICIARY AND LEGAL SYSTEMS**

◇ **Headings of reports tabled**

- Courts and the Administration of Justice

◇ **Some contentious issues**

- Should the Constitution provide for one single national legal system or a system where provincial courts have a final say on matters within provincial competence?

- Should the separate Constitutional Court remain highest court in constitutional matters or should a "two chamber" highest court be created?
- Should intermediate courts be enshrined in the final constitution?
- Should public participation in the Judicial Service Commission be expanded?

⇒ **THEME COMMITTEE 6 : SPECIALISED STRUCTURES OF GOVERNMENT**

* **SUBTHEME COMMITTEE 6.1**

◇ **Headings of reports tabled**

- Public Administration
- The Electoral Commission

◇ **Some contentious issues**

- Should political appointments in the public service be dealt with in legislation or in the Constitution?

* **SUBTHEME COMMITTEE 6.2**

◇ **Headings of reports tabled**

- South African Reserve Bank
- Auditor General

◇ **Some contentious issues**

- Should the SARB retain its name or be renamed the Central Bank?
- Should the powers and functions of the Reserve Bank be enshrined in the constitution or decided by the majority in Parliament?
- Who should appoint the Auditor General - the president in consultation with the Audit Commission/ parliamentary committee or the taxpayers?

* **SUBTHEME COMMITTEE 6.3**

◇ **Headings of reports tabled**

- Public Protector
- Human Rights Commission

◇ **Some contentious issues**

- How should the Public Protector be selected - through Parliament or through recommendations from the Judicial Service Commission?

- Should national and provincial PPs have separate spheres of influence and jurisdiction?

* **SUBTHEME COMMITTEE 6.4**

◇ **Headings of reports tabled**

- Supremacy of the Constitution and accountability and control of the Security Forces
- Police
- Defence
- Intelligence

◇ **Some contentious issues**

- Should provinces have powers to deploy police in a provincial state of emergency?
- Should a province have the right to overturn the declaration of a state of emergency in the Province?
- Should the Constitution enshrine the right to bear arms?
- Should national security be defined in the Defence Act or in the Constitution?

6. ANNEXURE B :

**LIST OF THEME COMMITTEE MEMBERS, VENUES TO
WHICH EACH WILL BE TRAVELLING AND
TRAVEL ARRANGEMENTS**

KWAZULU/NATAL : EMPANGENI - 26 AUGUST 1995 : CIRCUS SITE

THEME COMMITTEE MEMBERS							
Name	TC	Air Travel : To Richardsbay		Air Travel : To Ysterplaat		Accommodation	
		CA	Own	CA	Own	CA	Own
1. Dr I Phillips	6.4	*		*		*	
2. Ms N Mabude	3	*		*		*	
3. Ms MP Coetzee	3	*		*		*	
4. Ms PK Mothoagae	2	*		*		*	
5. Mr DP Taunyane	2	*		*		*	
6. Rev LJ Tolo	2	*		*		*	
7. MR MG Ligege	2	*		*		*	
8. Mr MPE Mogale	2	*		*		*	
9.							
10.							
11.							
12.							
13.							
14.							
15.							
CA STAFF							
1. WA Harms (Advance)	-	*		*		*	
2. M Stroebel (Advance)	-	*		*		*	
3. W Lourens (fly with delegates)	-	*		*		*	
4.	-	*		*		*	
5.	-	*		*		*	

7. ANNEXURE C :

TRAVEL AND ACCOMMODATION ARRANGEMENTS

Empangeni 26 August 1995

25 AUGUST 1995

7.1. TRANSPORT TO YSTERPLAAT AIR FORCE BASE

Bus to depart at 15:15 on 25 August 1995 from National Assembly Building.

15:00 Delegates (MP's) to arrive at National Assembly Building

15:15 Bus to depart from National Assembly Building for Ysterplaat Air Force Base

7.2. DEPARTURE OF AEROPLANE FROM YSTERPLAAT AIR FORCE BASE FOR DURBAN INTERNATIONAL AIRPORT

Aeroplane will depart from Ysterplaat Air Force Base at 16:00 on 25 August 1995

15:35 Delegates arrive at Ysterplaat Air Force Base

16:00 Aeroplane to depart for Durban International Airport

20:30 Aeroplane to arrive at Durban International Airport

7.3. TRANSPORT TO THE SOUTH BEACH HOLIDAY INN HOTEL IN DURBAN

21:00 Delegates to be transported to the HOLIDAY INN HOTEL by shuttle

21:15 Delegates to be booked into the HOLIDAY INN HOTEL

21:30 Dinner to be served at the HOLIDAY INN HOTEL (Alcoholic drinks for delegates own account)

26 AUGUST 1995

08:00- Breakfast at HOLIDAY INN HOTEL to be served

09:00

09:10 Delegates to meet in foyer of HOLIDAY INN HOTEL - (Do not book out)

09:15 Shuttles to depart from HOLIDAY INN HOTEL to Durban International Airport

7.4. DEPARTURE OF AEROPLANE FROM DURBAN INTERNATIONAL AIRPORT TO RICHARDSBAY AIRPORT

09:40 Delegates to arrive at Durban International Airport

09:45 Aeroplane to depart for Richardsbay Airport

10:30 Aeroplane to arrive at Richardsbay Airport

7.5. TRANSPORT TO EMPANGENI FOR LUNCH AND CPM

10:40 Delegates to be transported to Empangeni (Foxy's Restaurant)

11:15 Delegates to arrive at Foxy's Restaurant

11:30 Pre-meeting briefing at Foxy's Restaurant

12:00 Lunch to be served at Foxy's Restaurant (Alcoholic drinks for delegates own account)

13:30 Delegates to be transported to the venue

14:00 CPM to start

17:00 CPM to end

17:30 Delegates to be transported to Richardsbay Airport

18:00 Aeroplane to depart for Durban International Airport

18:45 Aeroplane to arrive at Durban International Airport

7.6. TRANSPORT TO THE SOUTH BEACH HOLIDAY INN HOTEL IN DURBAN

19:00 Delegates to be transported to the HOLIDAY INN HOTEL by shuttle

19:45 Dinner to be served at the HOLIDAY INN HOTEL (Alcoholic drinks for delegates own account)

27 AUGUST 1995

08:00- Breakfast at HOLIDAY INN HOTEL to be served
09:00

09:15 Delegates to meet in foyer of HOLIDAY INN HOTEL with luggage

09:30 Shuttles to depart from HOLIDAY INN HOTEL for Durban International Airport

09:50 Delegates to arrive at Durban International Airport

7.7. DEPARTURE OF AEROPLANE FROM DURBAN INTERNATIONAL AIRPORT TO YSTERPLAAT AIR FORCE BASE

10:00 Aeroplane to depart for Ysterplaat Airforce Base

15:00 Aeroplane to arrive at Ysterplaat Airforce Base

15:15 Shuttles to transport delegates to National Assembly and Parliamentary villages

8. ANNEXURE D :**USEFUL CONTACT NUMBERS**

KWAZULU/NATAL : EMPANGENI - 26 AUGUST 1995	
EDWARD SHALALA (HOD : COMMUNITY LIAISON)	Cel: 083 65 32 471
SANET BEUKES (OPS ROOM : CAPE TOWN)	Home: (021) 923763 Cel: 082 55 68967 Pager: (021) 468-5050 Code: 9126
MARÍ STROEBEL (ADVANCE TEAM 2)	Office: (021) 403-2315 Cel: 082 55 700 72 Pager: (021) 468-5050 Code: 9129
WERNER HARMS (ADVANCE TEAM 2)	Cel: 082 55 700 72 Pager: (021) 468-5050 Code: 9117
WAYNE MORRIS (PROJECT MANAGER)	Cel : 083 653 2479 Pager (021) 468-5050 Code: 9505
MAPHELO MVUNELWA (PROJECT MANAGER)	Cel : 083 653 2471

