

DRAFT TERMS OF REFERENCE: WORKING GROUP ON  
THE CONSTITUTION MAKING BODY

WHEREAS:

The parties to the Convention for a Democratic South Africa, have committed themselves to establish a new Constitutional order which would transform our country into a non-racial democracy which would enjoy legitimacy amongst our own people and internationally;

We believe that all the people of an undivided South Africa including the Bantustans have the right to determine their own destiny and to work out for themselves the institutions and a system of government under which they want to live;

We further believe that all men and women have the right and duty to participate in the process of making a new constitution;

THEREFORE THE WORKING GROUP IS REQUIRED TO INVESTIGATE AND REPORT ON THE FOLLOWING:

1. The most appropriate mechanism for drawing a new Constitution based on the principles outlined above.
2. The method whereby the Constitution Making Body will be brought into existence. The terms of the legislation according to which it will be constituted;
3. The determination representation to the Constitution Making Body; The electoral systems to be adopted, entitlement to vote, The necessity for the registration of voters and the supervision and monitoring of the electoral process and whether such monitoring should include an international element. The period of time to be set aside for the purpose of conducting elections;
4. The powers of the Constitution Making Body and the role of the principles of the new constitution adopted by the Convention for a Democratic South Africa and the method of adoption of the new Constitution;
5. The procedure to be followed by the Constitution Making Body in its deliberations. Who should preside at its meetings;
6. The manner in which decisions will be taken will be by simple majority or by special majorities;
7. The implementation of the decisions of the Constitution Making Body.
8. Whether it is feasible or necessary to impose a time limit on the work of the Constitution Making Body.

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THE WORKING GROUP IS REQUESTED TO FORMULATE PROPOSALS AND MAKE RECOMMENDATIONS:

1. The most appropriate mechanism for drawing up the new Constitution.
2. The method whereby the Constitution Making Body will be brought into existence and the terms of the legislation according to which it will be constituted.
3. The determination of representation to the Constitution Making Body; the electoral systems to be adopted; persons eligible to vote and the necessity for the registration of voters.
4. The supervision and monitoring of the electoral process and whether such monitoring should include an international element. The period of time to be set aside for purposes of conducting elections.
5. The powers of the Constitution Making Body, and the role of the principles of the new Constitution adopted by the Convention for a democratic South Africa. The method for the adoption of the new Constitution.
6. The procedure to be followed by the Constitution Making Body in its deliberations. Who should preside at its meetings.
7. The manner in which decisions will be taken - will it be by simple majority or by special majorities.
8. The implementation of the decisions of the Constitution Making Body.
9. *To determine the time frame.* Whether it is feasible or necessary to impose a time limit on the work of the Constitution Making Body.

IN THE PERFORMANCE OF THE TASKS SET OUT ABOVE, THE WORKING GROUP SHALL HAVE REGARD:

1. To the determination of all the parties to create a single, non-racial, non-sexist democratic South Africa that enjoys internal legitimacy and international acceptance; and
2. The common commitment of all the parties to allow all people of an undivided South Africa to determine for themselves the structures and a system of government under which they want to live.

3. To the acceptance by all the parties that all men and women have the right and duty to participate in the process of making a new constitution.