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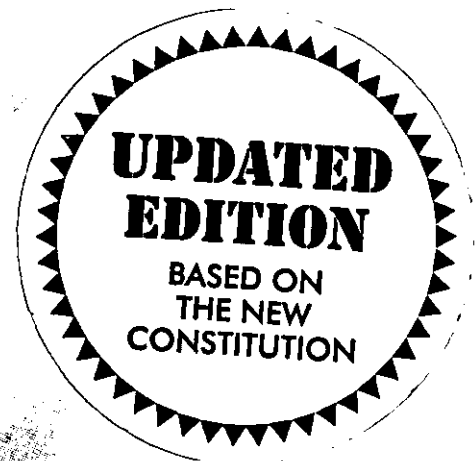
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TRANSITION AND THE CONSTITUTION

*I am writing the new
constitution*



Training Centre for Democracy





TRAINER'S MANUAL

Transition and the Constitution

Produced by the Institute for Democracy in South Africa (IDASA)

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HOW TO USE THIS MANUAL

COLOURED PAGES

These are materials for you, the trainer.

They include:

- a set of detailed workshop objectives
- a step-by-step programme
- notes relating to certain aspects of the workshop

WHITE PAGES

These are master copies of the handouts that you will need during the workshop. They are printed on white paper to ensure easy photocopying.

In some instances, the white pages also include group activity exercises. After printing, these pages should be cut up into separate slips.

TRANSITION AND THE CONSTITUTION WORKSHOP OBJECTIVES

As a result of having attended this workshop, participants will

- have consolidated their understanding of the process that led to the drafting of the Interim Constitution
- have some grasp of the scope of the Interim Constitution and significant new items contained in it
- understand the composition and functions of the Constituent Assembly, National Assembly, provincial legislatures and local government structures, and their relationship to one another
- be aware of ways in which they can give input into the drafting of the new constitution, and areas in which it may be important for them to do so
- have a clearer understanding of the the importance of the RDP in the transition to democracy in SA, and possibilities for their involvement in it

IMPORTANT NOTE

USING THE TRAINER'S PROGRAMME

This programme has been designed for a **one-day workshop** lasting 6 hours.

It can be divided into **4 sessions**, each lasting **90 minutes**.

Some of the themes last longer than 90 minutes. Take a break when you see 

Some of the themes are shorter than 90 minutes. In this case, move directly on to the next theme, and keep going until you see



RESOURCES AND MATERIALS

At the beginning of each theme, there is a shaded box indicating the materials that you will need, and the resources you should refer to.

The trainer's programme is divided into 4 different columns:



The empty space under the clock is where you can write the actual time (eg. 10:30) when each programme step should begin. Use a pencil, as the times will change, depending on when your workshop begins.

PROGRAMME STEP

This describes each activity in detail. **Bold type** indicates that you should use the questions or instructions **exactly as they are written**.

HOW LONG

This indicates the time that you should spend on each activity, but it does not indicate when you should start and when you should finish.

WHO

If there are two or more trainers conducting the workshop, then you can use this blank column to write down who is responsible for each programme step.

THEME ONE: 90 MINUTES

TRANSITION MILESTONES

RESOURCES AND MATERIALS

To illustrate your mini-lecture on milestones in the transition, you will need the ten cards making up the drawing of the road to democracy from 1990 to 1994.



PROGRAMME STEP

Welcome participants to workshop and introduce trainers

HOW LONG

5 min

WHO

Divide participants into random groups of 5.

Groups answer the following questions:

35 min

- 1) When did the transition to democracy in SA begin for you? (ie when did you get the feeling that things were beginning to change?)
- 2) When did you feel the most optimistic and the most pessimistic about the way the transition was developing? (name 2 high points and 2 low points)
- 3) What are you hoping to learn about the transition from this workshop?

Participants return to plenary.

Invite a few participants to share their answers to the first two questions above. Ask them just to name the significant moments and not to tell their stories (eg Boipatong).

10 min

Illustrated mini-lecture:

Key milestones in the transition.

One by one, in chronological order, put up the drawings of the road to democracy along a wall, underlining the significance of each event in the transition, also repeating some of the events mentioned by participants.

Invite participants to add any other moments that they consider to have been important milestones in the transition.

25 min

Ask one person from each group to summarise people's expectations from this workshop (question 3 above).

Briefly present the workshop objectives and programme.

15 min



THEME TWO: 90 MINUTES

CONSTITUTION-WRITING AND LOBBYING

RESOURCES AND MATERIALS

At the beginning of this session, you will need the handout showing the preamble and the contents of the Interim Constitution. For the group activity, you will need a set of ten constitutional problems for each group. The problem cards can be found on the last 5 white pages of this manual.

For the mini-lecture on the constitution-writing process, see the notes on pages 9 - 11. For the closing discussion on lobbying, refer to the trainer's notes on page 12.



PROGRAMME STEP

Participants gather in plenary.

Distribute handout on the Interim Constitution and skim through it, highlighting the importance of Constitutional Principles and key chapter headings.

Divide participants into an even number of groups, as groups will be required to pair up later. There should not be more than 6 people in each group.

Give each group a set of 10 constitutional problems. Each card begins with a short extract from the Interim Constitution and then highlights some of the questions that are raised by the way things are stated at present.

Explain that the aim of the exercise is to allow people to explore contrasting views on the issues at hand. It does not matter if there is fairly prolonged discussion on a particular issue, but groups should try to work through as many cards as possible.

Groups pair up and briefly share/compare their responses to the constitutional problems.

Mini-lecture:

The constitution-writing process.

Emphasise that a new constitution for South Africa will be written during the coming months, and that citizens can play a part in this process. The group exercise above was designed to show that there are several tricky constitutional issues that still need to be resolved.

HOW LONG	WHO
10 min	
40 min	
15 min	
10 min	



PROGRAMME STEP

In plenary, discuss the following question:

What are the mechanisms that people use in everyday life to persuade others to accept their views on an issue?

List points on flipchart. Summarise this session by explaining that when we wish to make our views on constitutional issues known to legislators, we use similar approaches, but on a larger scale.



HOW LONG	WHO
15 min	

THEME THREE: 90 MINUTES

LEVELS OF GOVERNMENT

RESOURCES AND MATERIALS

At the beginning of this session, you will require a copy of the Functions of Government worksheet for each participant. Also refer to the trainer's notes on page 13.

To illustrate your mini-lecture on the different levels of government, you will need the three charts showing functions, structures, budgets and laws. For guidance on how to use the charts, refer to the notes on pages 14 and 15.



PROGRAMME STEP

In plenary, explain that the next session deals with which level of government should be lobbied about what. Hand out the Functions of Government worksheet to participants. Participants complete exercise individually, matching up items in the left-hand column with the boxes in the right-hand column.

Divide into groups of 5 and compare responses to "Match the Columns" exercise.

In plenary, ask a different group to report on each issue. Allow brief discussion if there is disagreement on the responsibilities of the different levels of government. In summary, draw out criteria for determining at which level a particular issue should be handled.

Mini-lecture:

Structures of government.

Outline the powers of government at different levels according to the Interim Constitution, and briefly show how each level of government is organised and financed.

HOW
LONG

WHO

10 min

20 min

30 min

30 min



THEME FOUR: 90 MINUTES

THE RDP AND ONGOING TRANSITION

RESOURCES AND MATERIALS

For your mini-lecture on the RDP, you will need the chart giving details about transformation processes, reconstruction and development programmes, and overall goals of the RDP. Refer also to the booklet summarising the RDP.

At the end of the workshop, you will need an evaluation form for each participant.



PROGRAMME STEP

Participants return to their original groups of 5 (from first session).

Groups answer the following questions:

- 1) **When do you think the transition will be over?**
- 2) **What major obstacles must still be overcome in the transition to democracy in South Africa?**

In plenary, take one-sentence report backs from a few individuals on question 1 above. Ask each group to report back briefly on question 2.

Mini-lecture:

The RDP and the transition.

Emphasise that the RDP is a **broad programme for social reconstruction**, also involving economic development and political democratisation. The challenge is to enable all 3 processes to happen simultaneously.

Participants return again to original groups of 5.

Answer the following question:

What is the RDP's biggest challenge to you personally?

Closing remarks

Evaluation

HOW LONG	WHO
15 min	
15 min	
30 min	
10 min	
5 min	
15 min	

THE CONSTITUTION WRITING PROCESS

The present constitution (Act 200 of 1993) is an interim one. In Chapter 5 there is a presentation of the steps that have to be taken to prepare and adopt a new constitution.

- I. The constitution will be prepared and debated by a Constitutional Assembly comprising all the members of the National Assembly and the Senate sitting together.
- II. This work is going to be made possible by 6 Theme Committees together with expert assistance and public participation.

These theme committees are:

- A. The character of the democratic state
- B. The structure of government
- C. Relationships between levels of government
- D. Fundamental Rights
- E. Judiciary and Legal Systems
- F. Specialised structures of government

- III. The way all these structures will be put together is shown in the diagram.
- IV. The new constitution cannot depart from the 34 principles contained in Schedule 4 of Act 200. These are non-negotiable.
- V. When the constitution is written, it must be passed into law according to a very special procedure laid out in Act 200 section 73.
 - A. It must happen within 2 years of the first sitting of the National Assembly. In other words, by May 1996.
 - B. At least 2/3 of the members of the Constitutional Assembly must vote in favour of the text. This means 327 out of 490 votes.
 - C. The text must be certified by the Constitutional Court as being in compliance with the 34 constitutional principles.
 - D. If it is not possible to get a 2/3 majority, but there is a simple majority in favour of the new constitution, then there is a second set of steps which have to be undertaken:
 1. The text is referred to the panel of experts to suggest amendments which will make it possible to get a 2/3 majority. If this is possible within 30 days, then another vote can be taken. If the experts fail to make suggestions or the vote fails, then -
 2. The text, passed by a simple majority, will be referred to the Constitutional Court for certification. If the Court certifies that the text

is in compliance with the principles then -

3. A referendum of all South Africans must decide whether they accept this text. If 60% vote in favour of the constitution, it will become law. If less than 60% vote in favour, then -
4. Parliament will be dissolved, a new election held, a new Constitutional Assembly convened, and a revised text prepared. This time there will only be 1 year available and a 60% majority will be needed. If this fails, then steps 1 to 4 will be repeated until South Africans finally agree.

Please note:
This proposed structure was accepted and is now being used.

TRAINER'S NOTES
Do not distribute

PROPOSED STRUCTURE FOR CONSTITUTION MAKING

NATIONAL ASSEMBLY + **SENATE**
400 members + 90 members

CONSTITUTIONAL ASSEMBLY

chairperson: CYRIL RAMAPHOSA deputy chairperson: LEON WESSELS

Meets regularly

Meets regularly

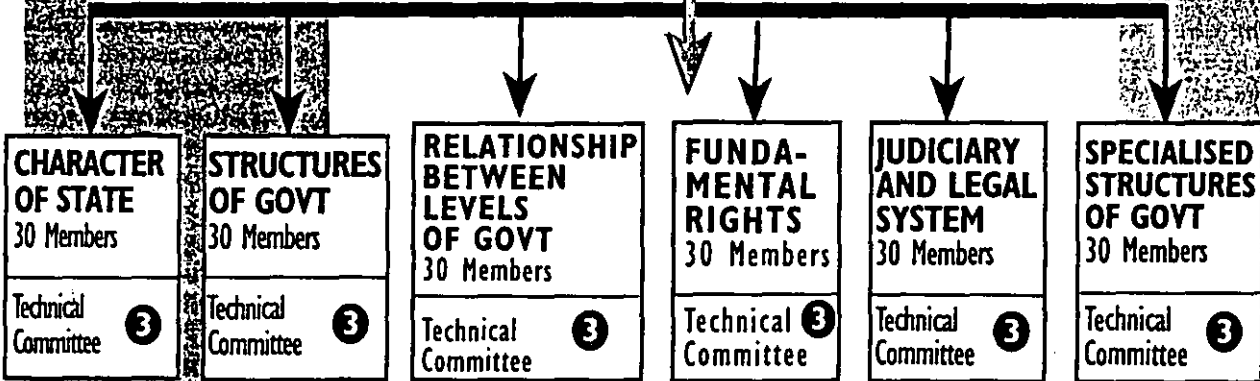
CONSTITUTIONAL COMMITTEE

40 MEMBERS

PANEL OF EXPERTS
5

Management Committee
7 MEMBERS

THEME COMMITTEES OF THE CONSTITUTIONAL ASSEMBLY



COMMISSIONS ON SPECIFIC ASPECTS

NO ORIGINAL DESIGN

PERSUASION AND LOBBYING

In everyday life, when we believe strongly in something and want to convince others to do the same, we do things like:

- speak to friends and people we know
- gather information to strengthen our arguments
- negotiate opportunities to speak to people we don't know
- encourage people to organise around the issue at hand, eg:
 - o distribute pamphlets
 - o sign petitions
 - o hold meetings
- elect people to speak to decision-makers on our behalf
- etc

Workshop participants will have all sorts of suggestions.

When citizens wish to make their views known to legislators in order to influence laws that are being written or passed, then they use similar tactics, but on a much larger scale.

NOTE:

Originally, the "lobby" was the name given to the entrance hall of the Houses of Parliament. It was open to the public, who would wait there in order to speak to members of parliament as they entered or left the house. They would use this opportunity to attempt to influence decisions made by parliament.

Broadly speaking, the verb "to lobby" has come to indicate the attempts by citizens to influence public officials at a high level. Once citizens can prove that there is considerable popular support for a particular cause, then they lobby members of parliament and other decision-makers to present their arguments during debate and to vote for or against a motion, as the case may be.

There are even professional lobbyists. They are hired by organisations and other groupings to approach members of parliament and important people on their behalf. Some people are critical of lobbying, because they say it is easier for wealthy people and powerful corporations than it is for ordinary citizens to have access to expert lobbyists and key decision-makers. However, lobbying is usually encouraged in democratic countries, as it does allow people to make their voices heard.

FUNCTIONS OF GOVERNMENT

Who does what at what level?

After doing the matching columns exercise, participants will have discovered that many issues are dealt with by two or even three different levels of government. This is a normal aspect of government systems.

Governments, especially new ones, have to work out for themselves how they are going to deal with this. So participants' thoughts on what criteria might be used are very important - there are no simple answers.

Two things can be added to the discussion:

1. Possible criteria

In general, the closer the government is to the problem, the more likely it will have to find practical solutions. National government normally provides standards, frameworks within which people can act, guidelines, and procedures.

Provincial government works within these and then tries to implement decisions in those areas which are bigger than a local government.

Local government obviously deals with very practical issues.

2. Jurisdiction

Decentralised and democratic government systems spend a lot of time trying to work out who is responsible for what. So there are many inter-provincial committees, co-ordinating bodies, meetings of premiers, advisory bodies to Ministers, and so on. These bodies provide the lubrication which makes life easier.

3. Conclusion

So when a dam must be renamed it may be possible to say, "That is a national responsibility". But the town that obtains income from tourists may want a say, the provincial museum service may have a point of view, and the citizens who had to move when the dam filled may also think it is their business. Sometimes it may be possible to pull out the rule book - but even when the rules are clear, democratic government is about making sure that there is ownership and consent.

Levels of government are there to create fair and responsible procedures and structures. Who does what and at what level has to be worked out finally as we go.

STRUCTURES OF GOVERNMENT

Please read these notes while looking at the three A4 versions of the large posters.

DESIGN OF THE POSTER

Each poster has four columns. They are the same four columns in each poster.

FUNCTIONS This is a list of the functions which each level of government is required to attend to. The list are taken from the Constitution, the responsibilities of Cabinet Ministers, and the Local Government Transition Act.

STRUCTURES This column provides a simple diagram that shows how different parts of government are linked together.

There are two sections to this column. On the left are the elected structures and individuals. They have political responsibility.

On the right is the bureaucracy (the civil service, public service, municipality - various names are used at different levels and at different times). These are the employed and professional staff who carry out the policy debated and agreed by the elected representatives.

At the top of the national and provincial bureaucracies is an elected politician - the Minister or Member of the Executive Committee (MEC). At a local level, the municipal officials report to a Town Clerk or Head of Department and then directly to the Council. Oversight is sometimes done by the committees and committee chairs.

In each assembly building there is a small picture of the person who runs the assembly. This is the Speaker or Chair of the meeting.

BUDGETS The budget column is designed to show that money is raised from people and companies, 'pumped' up to the correct level and then released through budget and financial controls back into the system. Each level collects money for itself, but the National and Provincial levels also give money to the levels below them.

There are other sources of money for government. These include loans, revenue, investments, and so on. This diagram is not intended to provide a complete picture but only to show that every level of government has access to money and therefore some independence.

LAWS The final column is designed to enable the trainer to tell people the technical names of the various ways in which they can find out what government is doing. Again, it is not exhaustive - government also releases other information and proclamations.

USING THE POSTERS

First display the National poster. Place it quite high on the wall. When you have explained the important features, place the Provincial poster directly below it so that the columns match up. Go through the explanation again. Now place the Local poster at the bottom and show how this tier of government has similar features.

EXPLANATION

- VI.. Read out the headings on the first poster. Point to each column as you do so.
- VII.. Read out some of the functions of government, choosing those which are most relevant to your participants.
- VIII.. Point to the structures column. Point out the President and show how he chairs the Cabinet (or meeting of Ministers). Explain that these Ministers are chosen from the elected representatives from the National Assembly. The National Assembly and the Senate also elect select committees who monitor and debate the recommendations and budgets of the Ministers and their Departments.

Point out the way a Minister heads up a government bureaucracy with a senior civil servant (or Director General). Explain that there are many departments, each with a similar structure who must do the work of the state and implement the policy of the government.
- IX.. Go to the fourth column and read out some of the names of the technical papers that contain the laws and policy of the country. Passing these laws binds the bureaucracy and citizens to the decisions of the elected structures.
- X.. Now explain that governing costs money. In the main it is obtained from various forms of tax. Read out some of these and ask participants if they have any other ideas about how government obtains money. Explain that the tap is the budget and control symbol. Money cannot be taken out of the pipe without ministries having prepared budgets. These budgets are also debated and voted on by parliament - and the select committees discuss them as well.
- XI.. The Provincial poster is similar to the National poster with some changes in terms. Explain that between National and Provincial levels there are many formal and informal structures to ensure that government runs efficiently. The same is true between Provincial and Local Government. If you or your participants know of any of these mention them now.
- XII.. The Local Government poster has some differences. There are not the same formal ways in which decisions and laws are published. The money that local government can raise has been symbolised by a bucket because it is smaller and more hands on. Refer to the notes on local government financing for more information. (These notes can be found on pages 15 and 16 in the trainer's manual for the workshop on Building Democracy through Local Government).

FUNCTIONS

What government must do

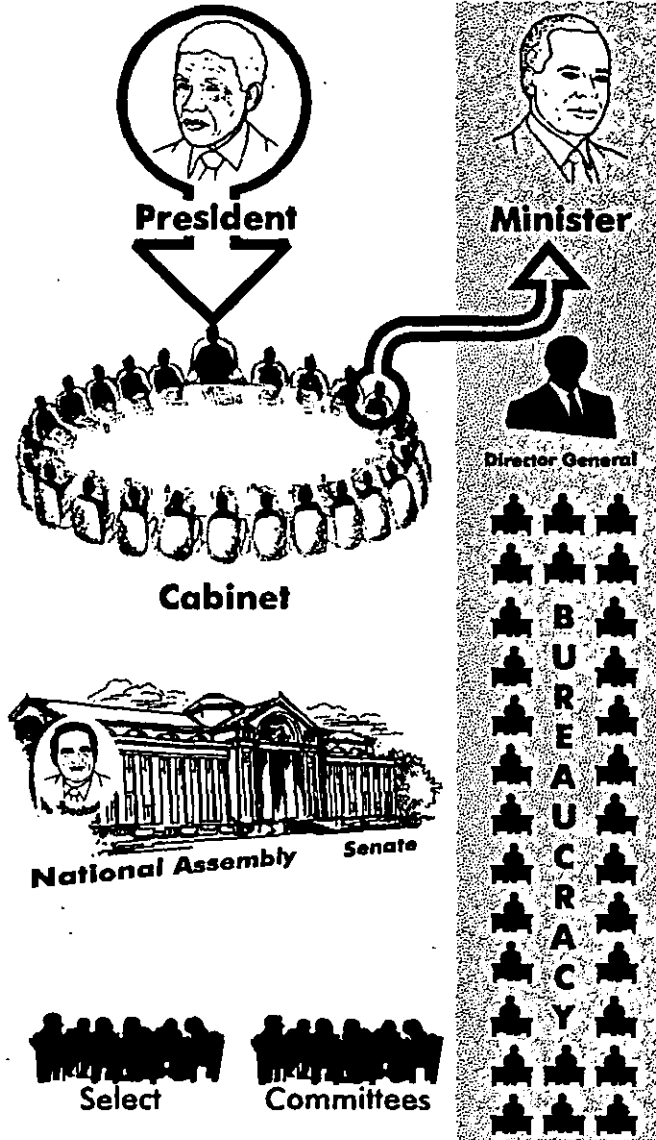
"Make laws for the Republic". The President will "provide executive leadership in the interests of national unity" and will be "responsible for the observance of the Constitution".

Agriculture;
 Constitutional Affairs;
 Defence;
 Finance and Taxation;
 Foreign Affairs;
 Health Services;
 Housing;
 Immigration and Customs;
 Labour;
 Land Affairs;
 Minerals and Energy;
 National Development;
 Passports;
 Police;
 Posts;
 Telecommunications and Broadcasting;
 Prisons;
 Provincial Government;
 Public Transport;
 National Roads and Regulations;
 Public Works;
 Public Service;
 Sport and Recreation;
 Technology;
 Arts and Culture;
 Trade and Industry;
 Universities and National Education;
 Water and Forestry;
 Welfare.

NATIONAL

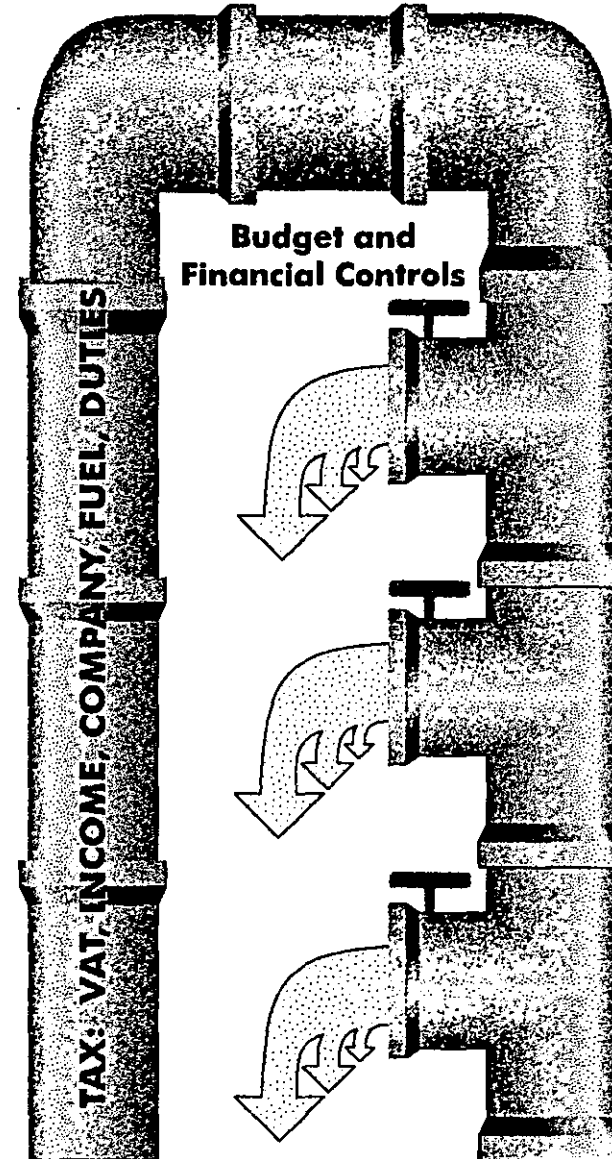
STRUCTURES

How government takes decisions and implements them



BUDGETS

How government finds money and pays its bills



LAWS

How government is able to govern

Bills	Laws published for discussion
Acts	Laws that have been passed by the National assembly
White Papers	Documents that set out government policy
Government Gazettes	Journal where all laws and procedures are recorded
Regulations	Administrative procedures

P R O V I N C I A L

Agriculture;
 Abattoirs;
 Airports;
 Animal Control and Disease;
 Casinos;
 Consumer Protection;
 Cultural Affairs;
 Education;
 Environment;
 Health Services;
 Housing; Indigenous and Customary Law;
 Language Policy;
 Local Government;
 Markets and Pounds;
 Nature Conservation;
 Police;
 Provincial Public Media;
 Provincial Sport and Recreation;
 Public Transport;
 Regional Planning and Development;
 Road Traffic Regulation;
 Roads;
 Soil Conservation;
 Tourism;
 Trade and Industrial Promotion;
 Traditional Authorities;
 Urban and Rural Development;
 Welfare Services.



Premier



Provincial Executive



LEGISLATURE



Select



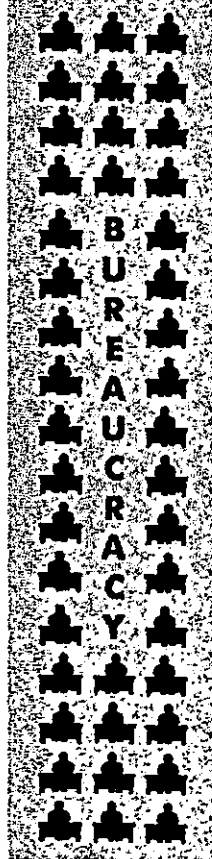
Committees



M.E.C

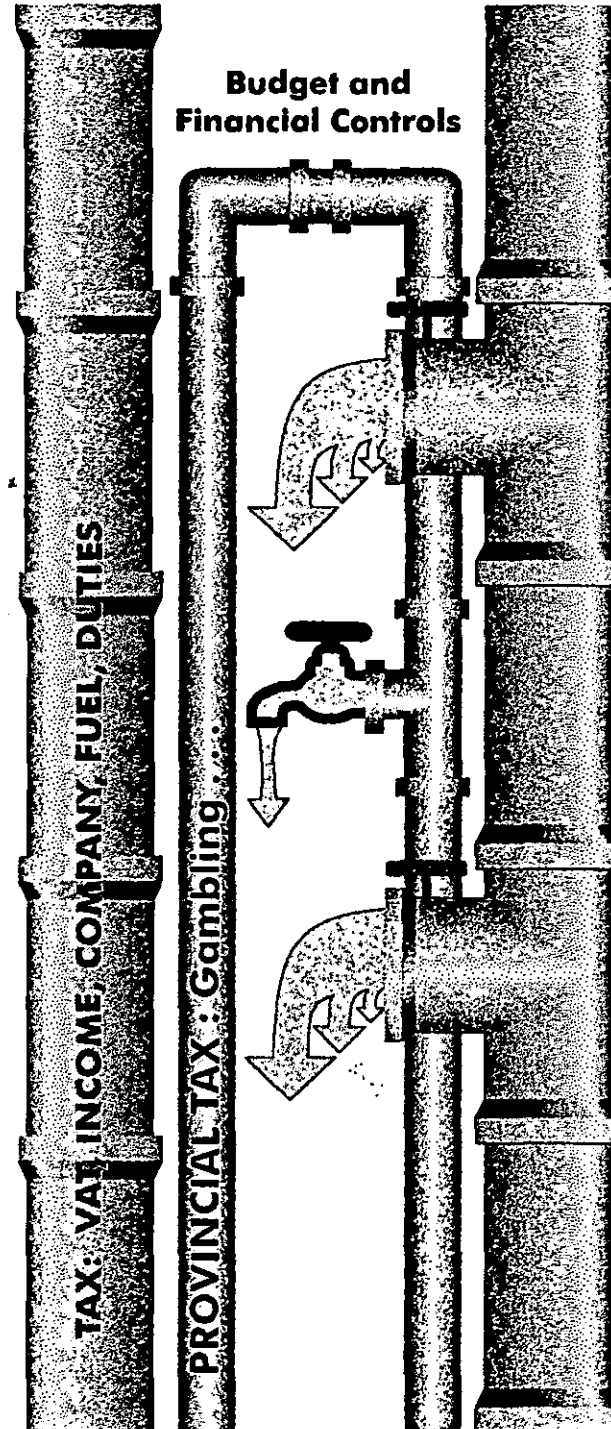


Director



BUREAUCRACY

Budget and Financial Controls



TAX: VAT, INCOME, COMPANY, FUEL, DUTIES

PROVINCIAL TAX: Gambling...

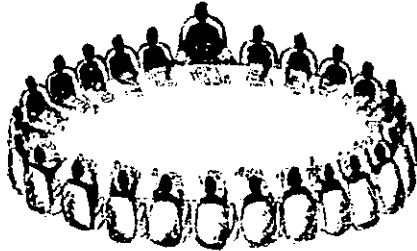
Provincial Bills	Laws published for discussion
Provincial Laws	Laws that have been passed by the Provincial legislature
White Papers	Documents that set out government policy
Provincial Gazettes	Journal where all laws and procedures are recorded
Regulations	Administrative procedures

L O C A L

Ambulance and Fire Brigades;
Cemeteries and Crematoriums;
Civil Protection;
Economic Development and Job Creation; Electricity;
Environment Conservation;
Fresh Produce Markets;
Hospital Services;
Infrastructural Services and Facilities;
Land Usage;
Libraries;
Museums;
Recreation Facilities;
Refuse Dumps;
Roads and Stormwater Drainage;
Sewage;
Tourism;
Traffic;
Transportation Planning;
Water.



Chair



Executive Committee



Town Council



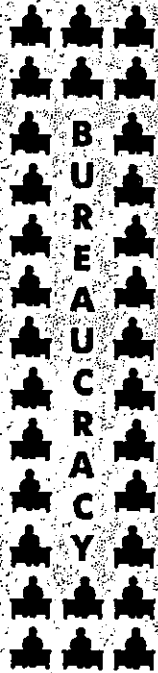
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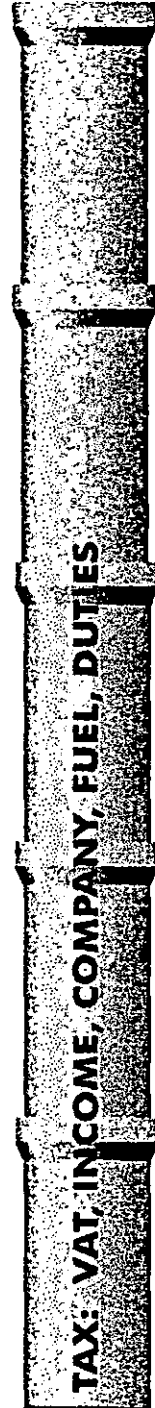
Committees



Head of Department



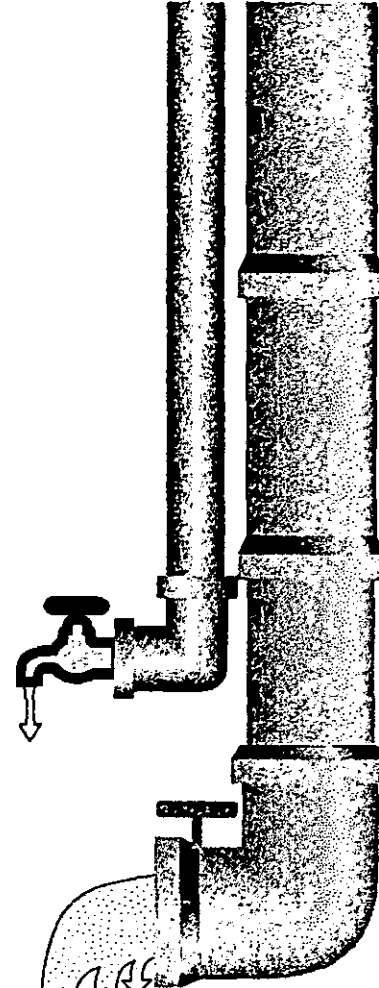
BUREAUCRACY



TAX: VAT, INCOME, COMPANY, FUEL, DUTIES



PROVINCIAL TAX: Gambling



Budget and Financial Controls



Rates and Levies

Bylaws Laws that have been passed by the Council

Council Minutes Record of decisions and resolutions of Council

FUNCTIONS

STRUCTURES

BUDGETS

LAW

What is the RDP?

an integrated programme

TRANSFORMATION

GOVERNMENT AND STATE

- reorganise budgets and shift expenditure
- streamline relationships between different levels of government
- transform state and para-statal institutions
- restructure the civil service
- establish democratic local government

SOCIETY

- develop human resources through education and training
- redress imbalances through affirmative action
- build working partnerships between business, trade unions, civil society and government
- re-establish law and order
- maximise citizen involvement in decision-making

RECONSTRUCTION AND DEVELOPMENT

PRESIDENTIAL PROJECTS

- to kick-start implementation of the RDP and provide a learning experience
- Projects include:
- rehabilitation and rebuilding of schools
 - free health care for pregnant mothers and children under 6
 - electrification of 350 000 households
 - free education for 10 years
 - national literacy campaign
 - AIDS education
 - provision of safe and clean water
 - clinic building programme
 - primary school feeding programme
 - training programme for small-scale farmers
 - extension of basic municipal services
 - township rebuilding programme

PEOPLE'S PROJECTS

- local RDP forums are formed to decide on development priorities
- ↓
- proposals from local RDP forums are passed on to local authorities and then to provincial government
- ↓
- comprehensive provincial RDP programmes are drawn up by provincial RDP office
- ↓
- cost and impact analysis of provincial programmes is performed by national RDP office
- ↓
- funding package is submitted to Cabinet for final approval
- ↓
- projects are implemented at local level

Ultimate Goals: reduce poverty; provide peace and security; deepen democracy; build the nation

TRANSITION AND THE CONSTITUTION

PARTICIPANTS' PROGRAMME

OBJECTIVES:

After attending this workshop, participants will have

- greater insight into the ongoing transition to democracy in South Africa, including the importance of the RDP
- clarity about the Interim Constitution and the drafting of the final constitution
- an understanding of the different functions of government at national, provincial and local levels
- ideas about their role in the transition process

PROGRAMME

Theme 1: Transition milestones

You and the transition
Looking back

≈ ≈

Theme 2: Constitution-writing and lobbying

The Interim Constitution
Constitutional dilemmas
Lobbying

≈ ≈

Theme 3: Levels of government

Structures and functions of government:
National, Provincial and Local

≈ ≈

Theme 4: The RDP and ongoing transition

Obstacles to transition
The Reconstruction and Development Programme



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

VOL. 343

CAPE TOWN, 28 JANUARY 1994

No. 15466

KAAPSTAD, 28 JANUARIE 1994

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 185. 28 January 1994

No. 185. 28 Januarie 1994

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 200 of 1993: Constitution of the Republic of South Africa, 1993.

No. 200 van 1993: Grondwet van die Republiek van Suid-Afrika, 1993.

PREAMBLE

In humble submission to Almighty God,
We, the people of South Africa declare that—

WHEREAS there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races so that all citizens shall be able to enjoy and exercise their fundamental rights and freedoms;

AND WHEREAS in order to secure the achievement of this goal, elected representatives of all the people of South Africa should be mandated to adopt a new Constitution in accordance with a solemn pact recorded as Constitutional Principles;

AND WHEREAS it is necessary for such purposes that provision should be made for the promotion of national unity and the restructuring and continued governance of South Africa while an elected Constitutional Assembly draws up a final Constitution;

*(Afrikaans text signed by the State President.)
(Assented to 25 January 1994.)*

ACT

To introduce a new Constitution for the Republic of South Africa and to provide for matters incidental thereto.

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FUNCTIONS OF GOVERNMENT: WORKSHEET

DIFFERENT LEVELS OF GOVERNMENT ... DIFFERENT RESPONSIBILITIES

Draw lines to link the different levels of government in with the issues that they are responsible for in the column on the right hand side. For example, abattoirs are the responsibility of local government.

Note: You may feel that certain issues should be dealt with at more than one level of government. How can you explain this?

NATIONAL ASSEMBLY

PROVINCIAL LEGISLATURE

LOCAL GOVERNMENT

- Dams
- Trains
- Nature conservation
- Housing
- Libraries
- Welfare services
- Roads
- Police
- Refuse disposal
- Schools
- Language policy
- Abattoirs
- Public swimming pools
- Water supply to homes
- Defence
- Passports
- Casinos
- Prisons
- Fresh produce markets
- Car licences
- Refugees
- Buses
- Electricity
- Trading licences
- Airports
- Immigrants
- Drug dealing
- AIDS
- Elections
- Courts of law
- Eco-tourism
- Traditional leaders
- Primary health care
- RDP
- Theatres

WORKSHOP EVALUATION FORM

NAME OF WORKSHOP: _____

NAME/S OF TRAINER/S: _____

DATE: _____ PLACE: _____

1. What was the most helpful part of this workshop for you?

2. Which sections of the workshop do you think can be improved? HOW?

3. Do you have any other comments about the workshop?

4. If you could attend more workshops, what else would you like to learn about?

Ch 1 § 3 (1) Afrikaans, English, isiNdebele, Sesotho sa Leboa, Sesotho, siSwati, Xitsonga, Setswana, Tshivenda, isiXhosa and isiZulu shall be the official South African languages at national level, and conditions shall be created for their development and for the promotion of their equal use and enjoyment.

Ch 1 § 3 (3) Wherever practicable, a person shall have the right to use and to be addressed in his or her dealings with any public administration at national level ... in any official South African language of his or her choice.

A person from the Northern Transvaal is on trial in Durban and refuses to answer questions from the prosecutor in any language other than Tshivenda. Must the court find a Venda speaking prosecutor or interpreter, even if it means delaying the trial?

What should be done? And how would you like government to deal with the fact of 11 official languages?

Ch 2 § 6 (b) Every person who is - of or over the age of 18 years ... shall be entitled to vote in elections of the National Assembly, a provincial legislature or a local government

There are many youth under 18 who are earning wages and working in the informal sector. They support the economy and may even pay tax through VAT. Sometimes their earnings are used by a family to pay rates and to keep their house. Is it fair to stop them from voting in the coming local elections?

How should voting age and qualification for voting be worked out in future?

Ch 3 § 9 Every person shall have the right to life

Chapter 3 is binding on all legislative and executive organs of state at all levels of government. Do you think that courts can impose the death penalty on anybody in the light of this right? If they do, do you think that any state official can implement the death penalty?

How would you want this clause of the bill of rights to be interpreted and protected by the Constitutional Court?

Ch 8 § 121 (2) A person or a community shall be entitled to claim restitution of a right in land - b) if such dispossession was effected under or for the purpose of furthering the object of a law which would have been inconsistent with the prohibition of racial discrimination ..

A broadly representative forum has agreed that District 6 in Cape Town should be developed for low income housing close to the city. A person who was dispossessed, but now owns a house a long way from town, registers a claim for his property. He wants it to build a small luxury townhouse so that he can spend his week-days closer to his business. Should the court give him his land back? If not, how should he be recompensed?

Ch 4 § 43 A member of the National Assembly shall vacate his or her seat if he or she - b) ceases to be a member of the party which nominated him or her as a member of the National Assembly

After a debate on rights for youth, in which members of the youth caucus do not get their way, some young parliamentarians announce that they consider their mandate to be first to youth and only secondly to the party of which they are members. They resign from the party. By law they have to vacate their seats and the party fills them with new MP's who are not young. They go to court to fight to retain their seats and challenge the constitution. How would you argue their case?

What system of representation would you like to see in the future?

Ch 3 § 14 (1) Every person shall have the right to freedom of conscience, religion, thought, belief and opinion ...

When the SPCA arrive to deal with a complaint about a goat being slaughtered in a back yard, they are told that they are interfering with their religious and cultural practices. How should people deal with issues like this?

Are there other potential controversies where this clause may be used? Are there any times when it could be used 'wrongly'?

Ch 3 § 14 (1) Every person shall have the right to freedom of conscience, religion, thought, belief and opinion, which shall include academic freedom in institutions of higher learning

ch 3 § 32 Every person shall have the right - (b) to instruction in the language of his or her choice where this is reasonably practicable

Schedule 4 XII Collective rights of self-determination in forming, joining and maintaining organs of civil society, including linguistic, cultural and religious associations, shall ... be recognised

The only University in the Province has been set up as a one language institution. About half the students want to be taught in another language and assert their right of choice and access to education. Will the University be able to remain a 'mother tongue' institution?

How much power do institutions have to set their own entrance requirements? Who should be making decisions about this?

National Unity and Reconciliation The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for ubuntu but not for victimisation. In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts ... associated with political objectives and committed in the course of the conflicts of the past

Should there be a Truth and Reconciliation Commission which asks people to disclose their violations of human rights? Or is 'the book closed'? How do you think we should deal with the past?

Ch 9 § 126 (3) An Act of Parliament which deals with a matter [where the province has passed a law] shall prevail over a provincial law inconsistent therewith, only to the extent that -

- b) it deals with a matter that ... requires to be regulated or co-ordinated by uniform norms or standards;
- d) it is necessary for the determination of national economic policies, the maintenance of economic unity, the protection of the environment, the promotion of inter-provincial commerce ...
- e) the provincial law materially prejudices the economic, health or security interests of another province or the country as whole

A province decided to allow the setting up of city police services in all its new local councils and rural local authorities. The members of this service are armed and are recruited from, amongst other places, the traditional leaders' retinues. The neighbouring provinces object that these police are intimidating work seekers who cross the provincial borders but the province insists it is its right to pass such a law.

What do you think should happen? How much autonomy should provinces get in the future?

Ch 11 § 183 (2) a) A House [of traditional leaders] shall be entitled to advise and make proposals to the provincial legislature or government in respect of matters relating to traditional authorities, indigenous law or the traditions and customs of traditional communities within the province

A new Civil Rights Act is being discussed. It provides that all people must be treated equally, not only by the state but by all citizens. This new Act is taking the place of, and incorporating, laws on gender equality. Must this Act be submitted to the House for discussion, and what happens if the traditional leaders reject it, declaring that they will not recognise it in their areas of authority?

Are there areas of law where traditional leaders should actually have more than advisory status? What role should they play in developing the new constitution?

