

PARLIAMENTARIANS



VOTE AGAINST FLAWED ELECTORAL AMENDMENT BILL.

Dear Member of Parliament

We, the undersigned organisations and individuals, are writing to you as our elected public representative. Tomorrow, Thursday, 20 October 2022, the National Assembly will have the opportunity to consider and vote on the Electoral Amendment Bill. This Bill was necessitated by the Constitutional Court judgment on the *New Nation Movement NPC and Others v President of the Republic of South Africa and Others [2020] ZACC 11*, delivered 11 June 2020.

As you might be aware, Parliament was given 24 months to amend the Electoral Act to make it possible for independent candidates to contest national and provincial elections. That deadline has since lapsed and Parliament, having secured an extension to 10 December 2022 is still racing against time to meet this extended deadline.

Various civil society organisations and individuals have written numerous letters to the Portfolio Committee on Home Affairs raising issues ranging from seeking clarity to warning the committee on some defects in the legislative process they have chosen to follow. The most significant defect has been that the committee chose to base its deliberations and the public participation process solely on the option presented by the Minister of Home Affairs, Dr Aaron Motsoaledi in the Bill he tabled in Parliament. The Bill originates from the work undertaken by the Ministerial Advisory Committee (MAC), which was set up to advise the Minister on alternative electoral systems following the Constitutional Court judgment.

The outcomes of the MAC report are discussed below:

The MAC's members were divided on the preferred system to be proposed to the Minister. This led to two opposing views in the report presented to the Minister.

Majority view

- In simple terms, the majority view (overlooked by the Minister and the portfolio committee) suggested that South Africa should adopt a mixed electoral system, with 200 seats in the National Assembly being voted directly from single member constituencies and the

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remaining 200 being determined from proportional representation lists, as it pertains in local government with the 50/50 split of seats.

- The majority view contended that this would result in fairness for independent candidates and achieve the constitution's requirement for an electoral system that results in general proportionality of the outcome.

Minority view

- The minority view (which is the foundation of the Bill you will be asked to vote for) adopted a minimalistic approach for the inclusion of independent candidates. This approach defines whole provinces as constituencies and forces independent candidates to compete with political parties and not individuals representing political parties as it pertains at a municipal level. It is a system that does not exist anywhere else in the world and is patently unsuitable to enable independent candidates to fairly contest elections.

The result is that you are being requested to consider and vote on a Bill that is unfair and unjust to independent candidates. It is also a Bill that will significantly disenfranchise voters. The foundations of our electoral system are based on the long traditions of the liberation struggle that call for "one person, one vote" of equal value. The proposed system significantly erodes the equality of our votes. This is a betrayal of our constitution and centuries of the struggle for liberation and equality in our country.

As civil society organisations, we have been proactive in our communication with the portfolio committee. This has regrettably not yielded much room for robust and deep engagement. At this eleventh hour, we are left without choice but to appeal to you as a Member of Parliament to reject this Bill and safeguard our democracy from being harmed through the passing of a Bill that will affect one of the most sacrosanct gifts of our democracy, the vote.

It is our intention to inform South Africans of the injustice Parliament is about to inflict on our democracy, if this Bill passes. For this reason, we will also inform South Africans to take note of those political parties who vote in favour of this Bill so that in the 2024 elections they can isolate such actors because they pose a direct threat to the strength of our cherished democracy. You must be

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reminded that as an MP you took an oath to the electorate to uphold the constitution in the interest of the public, and not political parties.

Yours Sincerely,

The undersigned civil society organisations and individuals endorse this letter:

Accountability Lab South Africa

Active Citizens Movement

Ahmed Kathrada Foundation

Auwal Socio-economic Research Institute (ASRI)

Bagera PTY LTD

Build One South Africa

Centre for Good Governance and Social Justice NPC

Citizens of Conscience Foundation

Civic Movement for Change NPC

Congress of Business and Economics

Council for the Advancement of the South African Constitution

Defend Our Democracy

Devoted Citizens of Johannesburg

Dutch Reformed Church

Get Informed Youth Development Center

Groote Kerk

Gugulethu Community Action Network

Inclusive Society Institute

Independent Candidate Association

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Institute for African Alternatives (IFAA)

ISIZIBA Community Based Organizations of South Africa

Legal Resources Centre

Letsema Centre for Development and Democracy

Macua Rand West City branch

Macua Mfidikwe Branch

Moretele Independent Civic Organization

Milton Lane Ramsgate South Ward 2 residents association

My Vote Counts

Ntwane Community Development Forum

NgwatheRA

Phoenix Child Welfare: Food Security

Progressive Tamil Movement

OUTA - Organisation Undoing Tax Abuse

One South Africa Movement

Open Secrets

Organising For Work

Right To Know

Rivonia Circle

Shadow Films

Solidarity

South African Conversations (Pty) Ltd

The Helen Suzman Foundation

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The Independent Voice of the People Movement