

Submission to: Portfolio Committee on Home Affairs

Re: Electoral Amendment Bill

16 September 2022

1. The undersigned organisations submit the following proposal in relation to the Electoral Amendment Bill currently under review by the Portfolio Committee on Home Affairs.
2. On 2 September 2022, the Council for the Advancement of the South African Constitution, My Vote Counts, Rivonia Circle, the Ahmed Kathrada Foundation and Defend our Democracy convened an ‘Electoral Reform Indaba’ in Johannesburg. The civil society Indaba was hosted to gain a better understanding of the current Electoral Amendment Bill. The Indaba concluded that the Bill as it stands is flawed.
3. The fundamental problem with our current electoral system is that members of Parliament are not chosen directly by the people. We want a system which allows the electorate to directly elect representatives and to be able to directly hold them accountable for decisions they make and the oversight they conduct. Those who represent us in Parliament, provincial and local legislatures should be directly answerable to the people in their communities and constituencies, and they should not only report to their political parties and elevate the interests of those parties over the interests of the people. They must primarily represent and account to those that elected them.
4. Moreover, the Bill ignores the findings of a litany of statutory commissions over the past two decades including the 2003 Frederik van Zyl Slabbert Report, the 2006 Parliament Report of MP Pregs Govender, the 2017 Kgalema Motlanthe High Level Commission and this year’s Zondo Commission Report.
5. With the aforementioned in mind, civil society organisations present at the Indaba were of the view that Parliament, and the Committee in particular, must reshape the electoral system in the interest of the public, through electoral reform that is credible, fair, and inclusive, and that promotes greater public accountability and responsiveness from elected representatives.

6. Making changes to the electoral system affects the lifeblood of our democracy. Any change must take into consideration the principles of openness and transparency, and must be done in an inclusive manner that is responsive to the will of the people. Its design therefore requires real, thorough and broad public participation.
7. The Indaba outlined why the majority view of the Ministerial Advisory Committee on Electoral Reform should be considered as a minimum basis for changing the electoral system. It should not be ignored in favour of a minority view that is vulnerable to legal challenge.
8. The current Bill as it stands, and the system that it proposes, has not been tested anywhere in the world before. The Bill is complex and does not result, in general, in proportional representation. It goes against the underpinning of the democratic and constitutionally prescribed principle of equality where every person's vote is of equal value. The current Bill privileges political parties and further disadvantages independent candidates by making them compete on an unequal footing with political parties. This is manifestly unfair.
9. We urge the Committee to consider a mixed constituency and proportional representation (PR) list system at a national and provincial level that includes the right of independent candidates to contest elections on an equal footing with candidates from political parties.
10. Given the short timeframes before the 2024 national government elections, there is an urgent need to find consensus on a way forward. In finalising the Electoral Amendment Bill, political role-players and Parliament must appreciate that the broader public will not accept cosmetic changes to the system that advances the interests of political parties over those of the electorate.
11. We therefore implore the Committee to adopt the 'majority view' of the Ministerial Advisory Committee on electoral reform as a minimum basis for changing the electoral system. This will make it more equitable for independent candidates – ordinary people through their communities – to stand for public office and contest elections in an equal competition with individuals from political parties off their party lists. It also allows for greater public accountability, while maintaining proportionality.

12. We request the Committee to review its dogged insistence on using the minority report as a basis for the Electoral Amendment Bill.
 13. Various organisations have written to the Committee on different occasions and have made submissions to the Committee on the flawed nature of the draft Bill. By forging ahead with the flawed Bill, the Committee stands the risk of having the finalised Electoral Amendment Act challenged in Court. This further delay of the process will put enormous pressure on the Independent Electoral Commission to ensure an administratively smooth, credible, free and fair election in 2024.
 14. As civil society organisations, we will continue educating, informing and mobilising the public around the importance of credible and meaningful electoral reform. We will also continue advocating against an electoral system that benefits political role-players over the interests of the electorate.
 15. Electoral reform gives us an opportunity to change what was intended to be an interim system that Parliament was obliged to review, but failed to do until it was forced to by the Constitutional Court in 2020. Our current electoral system no longer meets the needs of ordinary people who wish to be more directly involved in our still fledgling democracy.
 16. In a 1999 address to Parliament former President Nelson Mandela said: “We do need to ask whether we need to re-examine our electoral system, so as to improve the nature of our relationship, as public representatives, with the voters!” The opportunity for meaningful electoral system change should now not be missed by society at large, nor dismissed by political role-players who are once again placing their interests above those of the public.
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Endorsed by:

1. Active Citizens Movement
2. Ahmed Kathrada Foundation
3. Africa School of Governance
4. African Union Student Commission
5. Anglican Church of Southern Africa
6. Auwal Socio-Economic Research Institute
7. Bana Ba Thari
8. Bongekile Foundation
9. Cederberg Eerste
10. Center for Good Governance and Social Justice NPC
11. Citizens Parliament
12. Council for the Advancement of the South African Constitution
13. Defend our Democracy
14. Devoted Citizen
15. Disabled Women Integration Programme
16. Father's Voice
17. FW de Klerk Foundation
18. Groote Kerk
19. Gugulethu CAN
20. Hamb'ekukhanyeni Contextual Theology Collective
21. Helen Suzman Foundation
22. Independent Candidate Association
23. ISIZIBA Community Based Organizations of South Africa
24. Johannesburg Against Injustice
25. Johannesburg Institute of Social Services
26. Katz Korana Royal House
27. Knysna Independent Movement
28. Lebowakgomo Civic Organization
29. Letsema Centre for Development and Democracy
30. Ma Africa Street Accredited
31. Mandela Bay Community Movement
32. Mopani Independent Movement
33. Moretele Independent Civic Organisation
34. MUSA - Movement for a United South Africa
35. Muslim Judicial Council (SA)
36. New Horizon Movement
37. Ngwathe Residents Association
38. One Movement for Cape Town
39. One South Africa Movement
40. Organisation Undoing Tax Abuse
41. Project Youth South Africa
42. Rivonia Circle
43. #SA1stForum
44. Siyathemba Community Movement
45. Solidarity
46. South African Conversations

47. South Durban Community Environmental Alliance
48. The Fair Labour practice
49. The Independents Queenstown
50. Transforming Drakenstein Community Forum
51. Ubiqua-San Kingdom
52. UniteBehind NPC
53. United Front of Civics
54. Voice of the People Movement
55. Wattville Community Action Network
56. Womxn and Democracy Initiative, Dullah Omar Institute –
University of the Western Cape

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