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.

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- 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.

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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