

COSATU Submission:
Electoral Amendment Bill

21 February 2022



COSATU

Submitted to:

**Portfolio Committee:
Home Affairs**

National Assembly

Republic of South Africa

1. Introduction

The Congress of South African Trade Unions (COSATU) welcomes the Electoral Amendment Bill tabled by Government at Parliament.

COSATU's support for the Electoral Amendment Bill is based on the following key principles:

- Recognition of need for Parliament to abide by and urgently effect the Constitutional Court judgement;
- Need for Parliament to amend Electoral Act as a result;
- It is unnecessary to amend Constitution as an amendment to the Electoral Act is sufficient and would be covered under the Constitution as it currently stands;
- Need for public consultation to ensure broad acceptance of amendments;
- Need to effect before 2024 elections; and
- Need to avoid losing positive aspects of existing proportional system.

2. Address Flaws in Existing Legislative and Governance Systems

The calls to amend the Electoral Act take place against a background and decade of a debilitating pandemic of corruption eating at the heart of the state.

The public is exhausted and the economy struggling to cope with the inefficiencies of the state to address problems facing society & deliver quality public services.

Voters believe that politicians not in tune with or who don't care about the public.

We are often confronted by ill prepared public representatives and executive office holders.

These and other factors are causing a growing sense of deep-seated public alienation from the political establishment and electoral systems.

3. Need for Compliance with Constitutional Court Judgement

There is an urgent need to ensure amendments of electoral legislation & implementation by IEC in time for 2024 national & provincial elections.

This means the National Assembly must be able to pass the Electoral Amendment Bill by September 2022 and the National Council of Provinces by June 2023.

This gives space for their assent by the President, gazetting and IEC systems readiness by September 2023.

This would provide time for political parties and independents wanting to contest to commence preparations by September 2023.

4. There is a Need for Minimal Disruptions

It is critical for the legislative amendments to have as minimal disruption approach. We do not have time for wholesale changes or disruptions.

The Constitutional Court judgement called for inclusion of independents not whole upheaval or abandonment of proportional representation. The judgement identified principle of including independents and allowed Parliament to flesh out modalities.

It is critical to preserve positives of proportional representivity & avoid introducing instability. There is no need to amend Constitution. It is sufficient to amend electoral legislative definitions of electoral parties to include categories of independents.

5. Constituency Boundaries

The Electoral Act already provides for provincial constituency boundaries. COSATU supports the Bill's provisions for these to be defined as constituencies for independents for the provincial to national and province to province ballots.

This provides clarity and simplicity with minimal disruption.

The benefits of using provincial boundaries will help synchronise electoral with government boundaries.

The Bill is correct to require that independents would need to meet the same electoral vote thresholds for Parliament and Provincial Legislatures as political parties, e.g. receive the same required percentage of votes.

6. Dangers of Constituency Based Only System

Accountability

Many Ward Councillors in local government have fared no better in improving service delivery. Few residents know their Ward Councillors are. Many Ward Councillors have shown contempt for accountability to electorate and their parties, behave like warlords and treat their wards as personal fiefdoms, often in some informal areas where Councillors establish patronage systems in exchange for public services.

Demographics and Inclusivity

Most Ward Councillors are men. Most Ward Councillor seats held by the big 3 parties e.g. ANC, DA and IFP. Very few smaller parties win wards. There are real political dangers of not having all political views represented in Parliament and Legislatures.

Ward Councillors tend to reflect demographic base of their parties, e.g. African for ANC, White and Coloured for DA, Zulu for IFP. Ward Councillors usually elected due to local popularity or ability to mobilise a crowd, not necessarily skills needed to govern municipalities.

Distorting Voter Preferences and Gerrymandering

Constituency systems e.g. the United States tend to significantly distort population sizes and voting preferences, e.g. how smaller states require fewer people to elect Senators and Congressmen as compared to larger states.

Constituency systems encourage gerrymandering, e.g. lumping voters of certain parties in a constituency or drawing illogical boundaries to favour a party. This is notorious in the US, but also happening in South Africa, e.g. in Cape Town;

Gerrymandering helped deliver National Party majority of seats in 1948. People vote largely on the basis of political party preference, yet in the US elected representatives often defy party lines, for good & bad reasons.

7. Benefits of Proportional System

Political Inclusivity and Peace

South Africa comes from a very racially, ethnically, culturally, geographically, politically divided past.

Proportional representation system was deliberately chosen to ensure all political views were included in Parliament & Legislatures in 1994, e.g. the Freedom Front & IFP. This was key to preventing violence and ensuring all political parties had a stake in the democratic transition and system.

Reflecting Voter Preferences

The PR system ensures that any party with 0.25% of the vote can win a seat in Parliament. It ensures all votes are equal. It is simple & easy for public & parties to understand. PR system in South Africa's case with a strong majority party largely provides for stable government as compared to PR systems in Israel, Italy, Spain etc.

The municipal hybrid system ensures even with wards, parties are still represented in councils based upon their PR vote.

Demographics and Skills Diversity

Demographic targets and inclusivity can be achieved and enforced in PR system. It has helped ensure above 40% gender representation in Parliament, as well as racial, disability, regional representativity and inclusivity.

It allows political parties to deploy persons with relevant skills and experiences. It enables political parties to enforce party decisions which may be unpopular with factions (can also be a con too).

8. Related Key Contextual Matters

Attention should be given to holding single national, provincial and local elections as they:

- Will help to save costs for government and parties;

- National elections have higher turnouts;
- Will synchronise terms in 3 tiers of government; and
- Will enable natural progression of Councillors to Legislatures and Parliament with less disruptions resulting from by-elections.
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9. Conclusion

There is an urgent need for Parliament to effect Constitutional Court judgement before 2024 elections.

The Electoral Amendment Bill provides the correct legislative adjustment.

It provides for a minimal disruption approach. It preserves the essence and positives aspects of the proportional system.

It is important that there be broad consensus and support for the Electoral Amendment Bill as it needs to be seen to be above narrow party interests.

The Electoral Amendment Bill will help to provide inclusivity in the electoral system and to address the Constitutional Court judgement. However there remains a need to address other flaws in political system and governance. These centre upon a political establishment that is seen as out of touch with ordinary citizens, unresponsive to public anger, unable to deliver a better life to the public and often deeply implicated in corruption or self-serving activities.

Unless these fault lines are addressed, the public will grow increasingly detached and cynical about the efficacy of the political and electoral systems. A nation with South Africa's challenges, can ill afford that.

Thank you.



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