



Parliamentary committee: Electoral Reform

For Attention:

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21 February 2022

PUBLIC COMMENT ELECTORAL AMENDMENT BILL (B1-2022)

The landmark judgement between New Nation Movement & Others vs the President of South Africa & Others was not only significant because of the agency and hope it brought to the disillusioned and despondent South African electorate, it was also critically important on the basis that the frequency of the opportunity to amend the electoral act is a once in one-or-two generations process.

Thus, the importance of this process can never be overemphasised. However, the legislative arm of our government seems indifferent to this very evident fact. For us as the New Nation Movement, herein referred to as NNM, we find this apparent apathy very strange and take strong exception to the fact that Parliament does not seem to be treating this critical matter with the urgency and the weight it deserves. The order to Parliament to review the electoral act, was given more than twenty months ago, yet Parliament is only receiving the very first public submissions now. That on its own reflects the kind of attitude Parliament and the Executive have towards this process of Electoral Reform.

It has been suggested that between 17 – 19 million eligible voters did not vote and some did not even bother to register to vote in the 2019 National General Elections, mainly due to a loss of trust in the ruling party. Many of those that did not vote, or did not even bother to register to vote, had felt that the process of Electoral Reform would change that dire picture significantly. Yet Parliament and the Executive seem hellbent on short-circuiting this crucial process by proposing menial amendments, arguably just to satisfy the Constitutional Court (ConCourt) ruling, instead of seeing this as an opportunity to show leadership and display to the ordinary South Africans that they are a listening government. It is with this background

that we feel that the following critical elements should have been taken into account when looking at the amendments to be made:

1. Firstly, Adv. Pansy Tlakula asked a pertinent question, “what are we trying to solve?” The answer is very simple: to solve the problem of ‘the Legitimacy of Representation’, within that is contained the critical issue of Citizens Direct Accountability. To this end, we have had challenges of having proxies representing us in parliament (in the form of political parties) for the last 27 years. Every five years going to the polls to sign an extension of the power of attorney to have them govern us and take unilateral decisions on our behalf, as the citizens, without consulting the nation. The truth is, this system has been legal, but not lawful; neither was it a legitimate representation of the will of the people.
2. Secondly, it is against this background and the ConCourt judgement that we propose a majority non-partisan system that places the citizens at the centre of governance. Citizens governing themselves, by themselves, for themselves. This, we believe, will give a greater and truer expression of the concept and ideal of Power to the People. The critical elements of the proposal being the following:
 - 2.1 South Africa is currently made up 52 district municipalities. We propose that these 52 district municipalities be retained as they are, and recognize them as 52 multi-member constituencies that citizens can be organized in for the purposes of voting. We believe that this would eliminate the need to re-demarcate the nation for the purposes of accommodating independent candidates in the National Elections and save time instead of reinventing process that already exist and working well.
 - 2.2 A 75/25 % split for the 400 seats in the National Assembly: 75% of those seats being for Direct Constituency Based Communities and 25% for Proportional Representatives. The ConCourt judgement puts primacy on the citizen. It is a reality that even those citizens who choose to exercise their political choices via political parties are first and foremost individual citizens who are functioning within partisan political grouping. Their right is, therefore fully appreciated within the 75%.
 - 2.3 The 52 district constituencies or multi-member constituencies be allocated seats based on the number of the population. This could range from 3 representatives for the smaller constituencies to 8 representatives for the bigger metros.
 - 2.4 Sec 18 of the Constitution gives a clear direction that every citizen has a right to Freedom of Association, be it negative or positive. The positive nature of that right is and should not be limited to Political Parties. It should be extended to Non-Partisan Political/Non Political Associations, who may want to exercise their fundamental and constitutional rights. Sec 19(1)(c) reads “Every citizen is free to make political choices, which include the right to campaign for a political party or CAUSE. These two sections, together with Sec. 19(3)(b), clearly indicate that as citizens and a people, we have the right to organize and govern ourselves, not just

outside of political parties, but as communities who want to advance different Causes as well. If we choose to do so as communities, we would be exercising our constitutional right to the right of association, even though it being outside of partisan political party system.

Within this process, we strongly propose that Associations and or Non-Partisan Movements be allowed the right mobilize their communities for the purposes of exercising their political choices through these associations and the causes they may deem fit to meet their diverse needs.

2.5 Of the utmost importance is that the seats must belong to the multi-member constituencies, not the representative(s), who then appoint representatives to advance their cause in the National Assembly and an equivalent or a similar process to the Provincial Legislature. This will not violate the right contained in Sec. 19(3)(b) that “every adult citizen has the right to stand for public office and, if elected, to hold office. Instead, we believe that it would strengthen the voice of the constituencies and help prevent the abuse of power that could be given to an individual without Citizens Direct Accountability (CDA). So effectively, this would enable the Citizens Associations to have the compensatory seats that are currently reserved for political parties only, and give them the same status as the political parties.

2.6 Also extremely important is that constituencies should have the power to recall their representatives if not happy with the commitment shown by the said representative. This is the same power that political parties have currently to recall their representatives, without having to hold by-elections.

2.7 Direct representatives must also be funded like political parties are. We could possibly implement a process of elimination: when direct representatives reach a particular stage that indicates that there is sufficient evidence that enough people are supporting them, they would qualify for the financial assistance for the purposes of campaigning.

In conclusion, one of the values that underpin an electoral system is accountability. According to the IEC: “Public discourse has tended to elevate and place primacy on accountability as a key measure of a[n] electoral system. It is accepted that an electoral system may encourage, but cannot ensure accountability to the electorate. Accountability has much to do with political culture.” We believe that this is informed by the current electoral system. As the system evolves, we believe that even the scope of accountability should be enlarged, not just to encourage, but to facilitate a closer interaction between the constituencies and the electorate so as to see greater levels of citizens direct accountability (CDA).

It is also worth noting that we, as NNM, are submitting this very simple submission as ordinary laypeople of the land, without any legal or any other technical assistance.

Attached please find two supporting documents.

Warmest regards,

