

11 August 2022

Attention: Chairperson of the Portfolio Committee on Home Affairs

Dear Mr Mosa Steve Chabane

We write to you as aggrieved and concerned civil society organisations with regards to the processing of the Electoral Amendment Bill. Whilst we have participated in as many processes as possible since the June 2020 Constitutional Court judgment in the New Nation Movement case, it would seem that all our endeavours have been ignored.

A number of us made submissions to the Ministerial Advisory Committee (MAC) with many of our proposals finding favour with the majority proposal of the MAC. However, this was inexplicably discarded by the Minister of Home Affairs who instead chose to commit to legislation based on the minority view of the MAC. We also participated, in various ways, on the Parliamentary processes regarding the Electoral Amendment Bill where our submissions have similarly been side-lined. This presents us and the country with serious difficulties.

We therefore wish to formally register our dissatisfaction with both the content of the Bill as well as the manner in which it has been processed. CASAC, My Vote Counts and other organisations have previously written to you to express their concerns in this regard. We are mindful that this is a process of national importance and therefore, broad and meaningful public participation and engagement is of critical importance. The provincial roadshows conducted by the Portfolio Committee in March 2022 fell far short of the constitutional requirements.

This may inevitably lead us to a situation in which litigation becomes unavoidable to challenge a Bill that transgresses on key constitutional principles. Our view, supported by several independent legal opinions, is that the current Bill would not stand the test of constitutional compliance. Issues that may provide grounds for a constitutional challenge include the process of the certification of the Bill, the Minister's choice of the minority view over the majority view of the MAC, and the hasty public participation process embarked on thus far.

We remain hopeful that the Portfolio Committee on Home Affairs will fully grasp what is at stake here. If you do persist with a Bill that will render litigation necessary, you automatically place the 2024 national and provincial elections on very dangerous terrain. We are sympathetic and supportive of those members of the committee who have demonstrated the desire to achieve a constitutional outcome for this process.

We will not support an unconstitutional bill. Parliament is implored to act in the best interests of the republic and its people. There is widespread support for meaningful electoral reform that addresses the accountability deficit in our politics. People want to be led by representatives who treat the electorate with respect and whom they can hold accountable.

We believe that the Portfolio Committee must at the very least debate the merits of the majority view expressed in the MAC report. The process to produce this report incurred significant costs to taxpayers and cannot be discarded. The previous engagements of the

committee to date, have simply ignored the majority view. We believe it is impossible to engage constructively, even with the A-list amended bill to have been published on the 10 August 2022 without considering the majority view in the MAC report. We stand ready to engage in such a discussion with the Portfolio Committee.

While we recognise that Parliament is operating under a deadline imposed by the Constitutional Court, we also believe that it is in the national interest for the Portfolio Committee to explore all the options for electoral reform placed before it before committing to legislation. We therefore implore you to give us an audience so that we may collectively chart a way forward towards meaningful electoral reform that accords with our fundamental constitutional principles. ONE South Africa Movement and the Independent Candidates Association have shared their unsuccessful attempts at securing a meeting with you. We hope that this letter, endorsed by many more organisations will echo loudly the need to engage with civil society at this stage of the process.

Endorsed by:

Accountability Lab South Africa

Accountability Now

Ahmed Kathrada Foundation

Castro & Monica Mayatula Foundation

Centre for Good Governance and Social Justice NPC

Citizens of Conscience Foundation

Civic Movement for Change

Constitution Hill Trust

Council for the Advancement of the South African Constitution (CASAC)

Defend our Democracy

Dullah Umar Institute

Gandhi Development Trust

Independent Candidates Association

June and Andrew Mlangeni Foundation

Media Monitoring Africa

My Vote Counts

Organisation Undoing Tax Abuse

Rivonia Circle

South African Conversations

South African Christian Leaders' Initiative

Phoenix Settlement Trust

The Whistleblower House

For further information, or to support the campaign, contact:

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Council for the Advancement of the South African Constitution

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My Vote Counts

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Rivonia Circle

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