

Electoral Reform Indaba Outcomes

Background

The Electoral Reform Indaba, held on 2 September 2022 at the Braamfontein Recreational Centre, was constructive and important in bringing activists and civil society organisations together. The Indaba has reinvigorated the spirit of cooperation and collaboration by various actors as we are left with only three (3) months towards the extended deadline for Parliament to amend the Electoral Act, to permit independent candidates to contest during national and provincial elections.

The Indaba sought to build some consensus on the minimum issues to coalesce around as demands for electoral reform. The discussions were robust and demonstrated the difficulties inherent in harmonising divergent views. However, some consensus has emerged from the Indaba around three important issues:

1. The features of an ideal electoral system
2. The nature of constituencies
3. Accountability measures for public representatives

The above work would be carried out in three phases: namely, short-term (now to December 2022), medium-term (December 2022 to 2024 elections) and long-term (2024 elections to 2029 elections). These are deemed to be adequate window periods to champion electoral reforms that are meaningful and substantive. This was identified as a defining moment, with ability to redefine our electoral system in ways that reinvent our democracy for generations to come.

The features of an electoral system

All inputs indicated the need for an electoral system that gives greater power to the voters than political parties and entities. Some people raised the need for a localised system, where constituencies are not demarcated as vast geographic areas. Added to this, there was agreement that any electoral system should have ease of participation for all people involved, especially independent candidates. Any electoral system should foster transparency with as little barriers to entry as possible. Such an electoral system must avoid the risk of dividing people and must be designed in such a way that race, class, ethnic and gender are accounted for in the outcomes. There was strong mention of the need to ensure that constituencies are designed to bridge class biases, when in the rich are not isolated from poor communities. There are calls for an electoral system that is fair and inclusive, ensuring that South Africans have an equal and comparable ability to influence the election outcome. At the heart of this call, is a system where no votes are wasted or discarded as is the case with the current Electoral Act Amendment Bill.,

The nature of constituencies

There is still some debate on whether there should be single seat constituencies or multi-member constituencies. However, consensus emerged in that, for purposes of the National Assembly, there should be 300 directly elected Members of Parliament and 100 should come from a proportional representation list. This was said to be the most balanced approach to dilute the hold of political parties over the public representatives. Some people advocated for the need for all 400 seats to be constituency based. The most recurrent input was that constituencies must be as localised as possible, meaning that they should be made up of a certain number of wards within a certain geography. In summary, there seems to be some agreement on 300 constituencies that will each have one representative, with constituencies weighted for population and diversity balance.

Accountability measures for public representatives

Public representatives should be accountable directly to citizens before they are to their political parties. This means a wider public accountability. It should entail mandatory meetings, at predictable intervals, taking place within the constituencies that elected public representatives. This should also include the ability for citizens in their constituency to indicate dissatisfaction with their representative. Some people framed this proposal as indicative of a desire to conduct mid-term elections, while some people termed it “the recall clause”, meaning that perhaps after two or three years following an election, a certain percentage of people in a constituency should be able to propose a motion of no confidence on their elected representative. This is a bold manner in proposing public accountability, wherein the recall power resides more with citizens than political parties. Some people indicated that in our current dispensation, political parties already have windows of opportunity to implement their version of “a recall clause”, through the opportunities made available by the IEC (Independent Electoral Commission) for political parties to amend their lists of proposed public representatives to various legislatures.

There was also broad understanding that an electoral system cannot, on its own, guarantee accountability of elected public representatives. Such accountability will rely on the quality of people who get elected to public office. This includes citizens being vigilant in how they approach elections, growing the capacity of people to make significant demands on politicians through a People's Manifesto. This work demands all civil society organisations to develop a common platform and toolkit on how to conduct community engagements that will effectively give rise to a People's Manifesto – a negotiation tool in the hands of citizens when they encounter politicians who are overzealous in their promises to the electorate.

Way Forward on collaborative work on Electoral Reform

The organisations and individuals present at the Indaba committed to finding one another and supporting different strands of work that are aimed at amplifying the voice of the people in pursuit of substantive electoral reform. The work to be rolled out by different role players, in collaboration will include:

- a) Mass based campaigns
- b) Media focused work
- c) Political engagements
- d) Legal options to be pursued

Mass based campaigns

There is a need for focused work in galvanising the support of communities towards the electoral reform agenda. This should be achieved through various micro-convenings, wherein people are educated on the importance of this moment and how we can have society wide engagement. In other countries, the debate on electoral reforms is settled through a referendum. However, in our context, some people are doubtful on whether that is the best approach for South Africa. For this reason, there is a need to conscientize people on the meaning, necessity and importance of electoral reforms. There is recognition that we are chasing against time, and we need to draw in support of labour, faith-based organisations and other civil society organisations to support this effort in various communities in which they are strongest.

There are also calls to craft this work in a campaign imagined under the tagline: #TheRighttoChoose. People's right to choose their preferred candidates has been hampered by the Electoral Act, which is now deemed unconstitutional insofar as it disallows independent candidates to participate in national and provincial elections. The campaign should be rolled out at in-person events, as well as on social media platforms to ensure wider

reach of this work. This work should not exclude those who are of school going age but could be eligible to vote in 2024.

Media focused work

There is a need to drive an online campaign that leverages on media outreach as its focal point. There was a proposal to partner with the Amandla.Mobi petitions platform given their track record and ability to drive nationwide campaigns. There should be simplification of the message around electoral reforms for information to be accessible to people and communities. Part of this should be about ensuring that the language used is familiar to people and catalyses them to some form of action. The information should also be packaged in ways that are clear, ensuring that there is clear messaging for all role players, including politicians.

There should be consideration for media training and sharing on electoral reforms. This will assist media personnel to be well equipped in how they report on this issue and treat it in their various stories. Whilst effort has been placed in ensuring that this issue is of national importance, not enough has been done to translate that energy into a popular discourse that is sustained in our various media platforms.

Political engagements

Civil society is called upon to apply pressure on the political institutions (Parliament and the Presidency) that are involved in the process of passing the current Electoral Amendment Bill. This political pressure is intended to avoid litigation but also to demonstrate how tone-deaf various political establishments have been during this amendment process. Those organisations who have reach to some political parties represented in Parliament are encouraged to make contact and persuade those individuals who are open to persuasion. Some organisations remained sceptical about this route and its possible success, especially given how some political parties have conducted themselves.

Political engagement extends beyond reaching out to existing political parties. It also includes making the electoral reforms issue into an election campaign priority and encouraging people not to support political parties that don't commit themselves to substantive electoral reforms post the 2024 national and provincial elections. Added to this, there should be a daily campaign that targets parliamentarians to receive daily messages regarding the importance and need for substantive electoral reforms.

Legal options to be pursued

Attendees to the Electoral Reform Indaba committed to pursue all legal options available to them. This includes approaching the constitutional court if the law passed does not, in the eyes of various civil society actors, meet constitutional muster. The organisations and individuals at the Indaba committed themselves to supporting the most constitutionally viable version of the amendment bill. To this end, there was some consensus that the current bill is not viable and therefore organisations and individuals should reject it. However, there is also the dilemma of placing the 2024 general elections in jeopardy. It appeared that some consensus emerged that political expediency should not trump desirable constitutionality of any amendment to the current Electoral Act. It was, fairly, agreed that litigation should be pursued only after the president has attached his signature to the bill. Some people suggested that legal pressure be placed on the president to consider sending (ahead of his signature) the bill to the Constitutional Court for a constitutionality test. There were calls for a working stream on litigation to be developed made up of different organisations and led by CASAC.

Conclusion

The Electoral Reform Indaba was a resounding success in that it began to chart a clear way forward on how different actors should collaborate in pursuit of electoral reforms. This work can only succeed if there is common pooling of resources and efforts to reach as many sectors and geographic areas of our country as possible. The future of electoral reforms does not rest with the current politicians who profit from the current system. The people of South Africa must define their own future electoral system.