

Two views on improving our electoral system

At present, all people elected to Parliament and to the nine provincial legislatures have to be members of political parties. In 2020, the Constitutional Court declared that this provision (in place since 1994) is unconstitutional. The Court gave Parliament 24 months to amend the current Electoral Act to allow independent candidates to stand in national and provincial elections. This could have significant implications for the existing closed list proportional representation system. It also raises the possibility – that has long been mooted – that a form of constituency-based representation may be considered.

First off the mark to confront this challenge was MP Mosiuoa Lekota, leader of the Congress of the People (COPE) party, who tabled a Private Member's Bill, the Electoral Laws Second Amendment Bill (B34-2020), in Parliament on 4 December

2020 (PMG 2021a). This Bill is presently with the Portfolio Committee on Home Affairs.

In a parallel process, the Minister of Home Affairs, Aaron Motsoaledi, appointed a Ministerial Advisory Committee on the Electoral System. This is chaired by prominent former activist, politician and business leader Valli Moosa. Its job is to produce a draft Bill that government will consider and present to Parliament in due course (Motsoaledi, 2021).

Parliament, led by the Portfolio Committee on Home Affairs, has held several presentations, workshops and public hearings on the complex issues around changing the electoral system to meet the general directions of the Constitutional Court judgment and, of course, to satisfy the Constitution itself. Issues with the electoral system in South Africa have had considerable attention over the last two decades and more, with very

little action. MPs may be hesitant to do their work of holding the Executive to account – because they may owe their positions in Parliament to senior members of the same party!

In the articles below, *New Agenda* provides an insight into two approaches proposed for a new electoral system. First, former MP Farouk Cassim discusses Mosiuoa Lekota's Private Member's Bill. It is followed by an edited version of a submission by the Council for the Advancement of the SA Constitution (CASAC) to the Ministerial Advisory Committee on the Electoral System.

Motsoaledi, A. 2021. Debate on the Home Affairs Budget Vote 5, Dr Aaron Motsoaledi, Minister of Home Affairs, National Assembly 19 May. Available at <https://pmg.org.za/briefing/32985/>

PMG. 2021a. Electoral Act amendment; Electoral Laws Second Amendment Bill; with Minister. Report on a meeting of the Portfolio Committee on Home Affairs. 09 February. Available at <https://pmg.org.za/committee-meeting/32156/> [Includes presentation by Farouk Cassim] **NA**