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Press Release by

Dr Michael Louis: ICA Chairperson

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ICA petitions President Ramaphosa to not sign the Electoral Amendment Bill into law

On Thursday this week, Parliament passed the Electoral Amendment Bill, a flawed and unconstitutional bill that will end up being legally challenged.

The bill is currently on President Ramaphosa's desk. He has until midnight on Tuesday, 28 February to sign the bill into law, or refer it back to Parliament if he has reservations regarding the constitutionality of the bill.

The Independent Candidate Association (ICA) has written to President Ramaphosa to petition him to not sign the bill into law and instead refer it back to Parliament to remedy the defects in the current bill.

In particular, there are three constitutional concerns:

1. The bill creates an unconstitutional barrier to entry for independent candidates by requiring in terms of Items 1 and 5(a) of Schedule 1A that independent candidates may contest only half of the available seats in the National Assembly. This creates an effective vote threshold of approximately eighty-five percent more than that required for political parties.
2. By removing some votes cast in favour of independent candidates from seat allocations, the bill creates distortions of proportionality that violate the requirements of sections 46(2)(d) and 105(2)(d) of the Constitution. The recalculation mechanism used to affect this further distorts proportionality.
3. The distortion mentioned above is inherently related to a bias that favours the largest party or parties in any election, violating the right of all citizens to free and fair elections in terms of section 19(2) of the constitution.

We are of the conviction that this bill does not give full expression to the rights of independent candidates, as envisaged by the Constitutional Court, and further compromises both the integrity and standing of our electoral system through multiple unintended consequences.



If the President decides to sign the bill into law, we will have no alternative but to challenge this bill via an urgent application to the Constitutional Court which due to restrictive timelines could directly affect the 2024 elections.

The President faces a crisis. Normally a bill takes three to six months to consider. For this, the most important bill since the dawn of democracy, he has just three days.

It is trite to observe that an electoral system is a fundamental pillar of a stable and successful democracy. We therefore urge the President to exercise due care in applying his mind to the constitutional validity of the bill and to send it back to Parliament to raise his concerns.

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