



## **SUBMISSION TO THE AD HOC COMMITTEE (NCOP) ON THE FUNDING OF POLITICAL PARTIES**

Date Submitted: 08 June 2018

Submitted to: Ms E Grunewald

*Per Email:* [egrunewald@parliament.gov.za](mailto:egrunewald@parliament.gov.za)

National Council of Provinces

### **FOR ATTENTION:**

Chairperson of the Ad Hoc Committee on Political Party Funding:  
Honourable Dikgang Stock

### **AND TO:**

Members of the NCOP and the Ad Hoc Committee

Honourable M Chabangu

Honourable LB Gaehler

Honourable NP Koni

Honourable J Londt

Honourable S Mohai

Honourable M Monakedi

Honourable T Motlashuping

Honourable L Dlamini

Honourable M Khawula

Honourable C Labuschagne

Honourable E Makue

Honourable T Mokwele

Honourable T Motara

Honourable ZV Ncitha

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## Introduction

My Vote Counts (MVC) welcomes the call for written comment by the Ad Hoc Committee on the Funding of Political Parties (Ad Hoc Committee) in the National Council of Provinces (NCOP). This document serves as MVC's formal written submission to the Ad Hoc Committee in response to the call for comment. MVC's mission is to improve accountability, transparency and inclusiveness in our electoral and political system. Through research, popular education, advocacy as well as strategic litigation, MVC has campaigned for the reform of the political party funding system in the Republic of South Africa. MVC has closely followed all parliamentary developments related to this Bill and responded to each call for written and oral submissions. Along with other civil society organisations, MVC has expressed concern of the various loopholes and defects in the Bill in the call for submissions in 2017. In consideration of these defects with the Bill, MVC makes this submission to present our suggested amendments. This submission is not a rehash of our previous submissions on the Bill. With respect to the important duty of this Committee we have chosen to approach this process by focusing on the current version of the Bill and highlighting where the loopholes are that could be used to circumvent the purpose of this Bill. We have therefore chosen to attach our previous submissions as annexes to this submission.

It would also be prudent for MVC to disclose, that we are applicants in a Constitutional Court application to confirm a Western Cape High Court judgement that declared that information about the private funding of political parties' and independent candidates (represented at the local government level) is reasonably required for the effective exercise of the right to vote.

## MVC'S SUGGESTED AMENDMENTS:

### **1) Include 'voluntary services' into definition of 'donation in kind,' quantify voluntary services and include a disclosure threshold for voluntary services**

Voluntary services, whether rendered personally by one or many individuals, or an entity, should be included in Clause one's definition of a "donation in kind." It is possible for a political party to receive voluntary services that if quantified could amount to a substantial cost. Voluntary services that can be quantified at a large expense would not be accounted for under this legislation as it stands, as it is not regarded as a donation. Therefore, a disclosure threshold should be placed on voluntary services so that such services can be quantified and disclosed above a certain amount. We propose that this disclosure threshold be set at R10 000.



**2) Include to 'whom' the IEC must publish the information on parties' direct donations**

Clause 9(3) mandates the IEC to publish information on political parties directly received private donations on a quarterly basis in a “prescribed form and manner.” However, it does not state “to whom” this information will be published. Clause 9(3) should clearly state that the information will be published on a public platform and in what form to avoid a case whereby the IEC publishes the information merely to Parliament and not to the public.

**3) Include the local government sphere in the MPDF**

We accept that there are constitutional provisions that limit allocations from the Represented Political Party Fund (RPPF) to only the national and provincial legislatures. We however do not agree that only political parties represented in the national and provincial legislatures may benefit from the Multi-Party Democracy Fund (MPDF). As the sphere of government that most interfaces with our local communities, we believe that local government should benefit from the MPDF.

**4) Change the allocation formula of the MPDF**

The prescribed allocation formula in the regulations [Schedule 2, Clause 2(2)(a) and (b)] allows for 66.67% of the MPDF to be distributed proportionally and 33.33% to be allocated equitably. Seeing as the creation of the MPDF is to allow donors to donate to ALL represented political parties, it is only fair that the allocation formula be changed to allow smaller parties to benefit more fairly. MVC proposes that the allocation formula be changed so that 50% of it is distributed proportionally and 50% equitably.

**5) Regulate the disclosure of information on parties' investment vehicles**

Information on investments made to parties' investment vehicles is important information which should be disclosed to allow for the monitoring of all financial channels donors may utilise. The Bill should not merely disclose of information on money transfers to political parties' bank accounts, but should also include disclosure regulation on political parties' investment vehicles.

**6) Do not allow donors who donate to the MPDF to retain anonymity**

Clause 3(5) allows for donors to request the privacy of their identity or the amount of their donation. We propose that this clause be removed from the Bill, because it goes against the spirit of the intentions of this legislation. It is not clear as to why this clause is even included in this Bill. We also need to guard against the possibility of donors funding the MPDF with the view of gaining favour with several political parties while under the guise of secrecy.



#### **7) Do not allow members to personally receive donations**

Clause 10 of the Bill allows for donations to a member of a political party by a “person or entity” if the donation is for “party political purposes.” No member of a political party should directly receive a donation for any purpose and all donations should go directly through the party. These clauses can allow for high-ranking party officials to receive large sums of money from donors, further allowing for “quid pro quo” scenarios between individual party members and donors.

#### **8) Do not allow foreign entities to donate to political parties for policy development**

Clause 8(b) prohibits foreign entities from donating to political parties, with the exception stated in sub-clause 8(4)(b) that allows donations from foreign persons or entities for “policy development” of a political party. The term “policy development” is vague and could include anything from a single workshop to the entire process leading up to a policy conference. We should also be cognisant that an allowance for foreign persons or entities funding the policy development of our political parties could be very dangerous for our democracy.

#### **9) Prohibit donations from companies that do business with the state**

Companies that do business with the state should be prohibited from donating to political parties. The perception that a company that does business with the state gains favour from donating to a political party should be avoided. In the case that a sufficient time has passed since a company’s contract with the state has lapsed, a company should then be allowed to donate. MVC proposes that the Bill should include a two-year “cooling off” period after a company’s contract has ended before a company may donate to political parties. During this period the company should not donate directly to political parties.

#### **10) Lower the ‘prescribed threshold’ to R10 000**

In Clause 9(1)(a) it states that “a political party must disclose to the Commission all donations received [...] above the prescribed threshold.” The prescribed threshold is R100 000, as stipulated in Clause 9 of the regulations on the Bill. In the socio-economic context of South Africa, an amount lower than R100 000 can still influence a political party, particularly political parties at the local government level. MVC proposes that the prescribed threshold should be lowered from R100 000 to R10 000.

#### **11) Lower the upper limit that a single donor can donate**

In Clause 8(2) it states that “A political party may not accept a donation from a person or entity in excess of the prescribed amount within a financial year.” Clause 7 of the regulations on the Bill refers to this upper limit as R15 million. This amount is extremely high and could allow for a political party to be wholly dependent on a single donor. The amount of the limit should take the South African socio-economic context into account. Such a high amount can allow donors and political parties to dilute and undermine citizens votes in elections where the influence of a single donor could override the interests of the electorate. The amount should be determined by what the average South African earns on an annual basis. MVC proposes that this amount be pegged to the annual median income of the most economically disadvantaged citizenry group, black women. According to a 2016 Business Tech publication, the median monthly salary of black women was R2887 per



month. In this case MVC would advocate for an upper limit R34 644 per donor in one financial year.<sup>i</sup> Taking into consideration that the amount would change according to the wage data of the relevant financial year.

### **12) Clarify what is meant by expenditure items or categories**

In Clause 7, permissible expenditure categories are listed. The categories are vague and should be more clear and precise so that each expenditure item is not open for interpretation by political parties.

### **CONCLUSION**

MVC is encouraged by the decision by Parliament to set up this Ad Hoc Committee in the NCOP. We view this as a voluntary commitment by political parties to end the secrecy that surrounds their funding. In consideration that the Bill will only be effective 6 months after it is signed by the President, we hope that this Bill would be effective before the 2019 national elections. We ask that the NCOP seriously consider the amendments we propose and plead that the NCOP be considerate of the importance of this Bill being passed before the 2019 elections.

We also kindly request the opportunity to make a verbal submission to the Committee in order to engage further on the proposal herein.

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<sup>i</sup> BusinessTech. 2016. Shocking pay differences between black and white professionals in South Africa, 13 July. Available at: <https://businesstech.co.za/news/business/129980/shocking-difference-in-pay-between-black-andwhite-professionals-in-sa/>



**SUBMISSION TO THE AD HOC COMMITTEE ON THE FUNDING OF POLITICAL PARTIES**

Date Submitted: 20 July 2017  
Submitted To: Cindy Balie  
Parliament of South Africa  
*Per email:* [cbalie@parliament.gov.za](mailto:cbalie@parliament.gov.za)

**FOR ATTENTION:** Chairperson of the Ad Hoc Committee on Funding of Political Parties  
Honourable Vincent Smith

**AND TO:** Members of Parliament and of the Ad Hoc Committee

Ms Dorries Dlakude  
Mr Donald Gumede  
Mr Robert Lees  
Ms Lindiwe Maseko  
Dr Pieter Mulder  
Mr Floyd Shivambu  
Mr Narend Singh  
Mr Bongani Bongo  
Mr Nelson Godi  
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## 1. Introduction

My Vote Counts NPC (MVC) welcomes the call for written comment by the Ad Hoc Committee on the Funding of Political Parties (Ad Hoc Committee). This document serves as MVC's formal written submission to the Ad Hoc Committee in response to the call for comment. MVC's mission is *to improve the accountability, transparency and inclusiveness of elections and politics in the Republic of South Africa generally, including but not limited to: campaigning to reform the political party funding system in the Republic, through the introduction of legislation and other regulatory measures; campaigning to reform the electoral system of the Republic; and creating platforms which aim to unite citizens and organisations in finding democratic solutions to the challenges of our time, with a particular focus on civic, legal and political education.*

As a point of departure, MVC wishes to state, that as an organisation, we have resolved not to accept anonymous or secret funds, funds with conditions that may compromise the mission and objectives of the organisation, funds from political parties or funds directly from corporations or foreign governments. This resolution is aimed at preserving the independence of our organisation.

## 2. Background

This submission follows on several interactions between Parliament and MVC in the past five years. In 2012, MVC wrote to the Speaker of the National Assembly (the Speaker) requesting Parliament to initiate a process to regulate private political party funding. The Speaker at the time, Mr Max Sisulu, responded that, *'The matter of the regulation of the private funding of political parties is currently on the agenda of the Chief Whips' Forum of the National Assembly for discussion.'* Subsequent to this correspondence, MVC wrote to the Independent Electoral Commission (IEC) in 2013 to query the Commission's position on the regulation of the private funding of political parties. The IEC's response at the time, was *'that the Commission has not taken a*



*decision on whether or not to support legislation to regulate private and public funding of political parties.'*

In 2014, MVC wrote to all the political parties represented in the National Assembly, asking political parties to disclose who they received private donations from in the most recent financial year and the amounts per donor, in the interests of political party funding transparency. Later in 2014, MVC launched a Constitutional Court application to compel Parliament to introduce legislation to regulate private political party funding. In 2015, the Constitutional Court, in a majority judgement, ruled that MVC should challenge the constitutionality of the Promotion of Access to Information Act (PAIA) if MVC is unable to access the private funding information of political parties through the PAIA. In response to the Constitutional Court majority judgement, MVC sent PAIA requests to the political parties represented in the National Assembly in 2016. The PAIA forms asked each political party for the following:

*'...a full record of all monetary donations received from private sources, including individual persons (local and foreign), companies (local and foreign), and foreign governments. This information is requested for the past 5 years and the record must specify, the date on which the funds were received, the amount received, the name of the funder, and if there were/are any conditions to the donation – what these conditions are?'*

MVC received 4 written responses but none of the political parties provided the information requested. Consequently, MVC instituted a court case in the Cape Town High Court in July 2016, seeking an order to the following:

- *Declaring that information about the private funding of political parties and independent ward candidates (the latter concept as contemplated in section 16 of the Local Government Municipal Electoral Act, 2000) ("independent candidates") registered for elections for any legislative body established under the Constitution ("private funding information") is reasonably required for the effective exercise of the right to vote in*





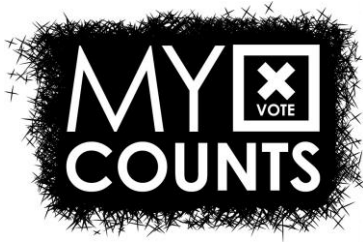
*such elections and to make political choices, in terms of sections 19(1), 19(3), 32 and 7(2) of the Constitution; and*

- *Declaring that the Promotion of Access to Information Act, 2000 (“PAIA”) is inconsistent with the Constitution and invalid insofar as it does not allow for the continuous and systematic recordal and disclosure of private funding information;*
- *Directing that the declaration of invalidity in 2 above be suspended for 18 months in order to allow Parliament to remedy the defects in PAIA and to achieve the following outcomes:*
  - *The affirmation of the duty of political parties to disclose private funding information;*
  - *The automatic and regular disclosure of private funding information by political parties;*
  - *Access to all private funding information, whatever form the funding or the information may take;*
  - *The obligatory creation by political parties of records of private funding information in order to facilitate disclosure and access;*
  - *The obligatory maintenance of records of private funding information by political parties for at least five years after their creation; and*
  - *The disclosures contemplated above will be mandatory and no persons will be permitted to raise any basis for not disclosing the relevant information.*

It is on the basis of these initiatives, as outlined above, and within the purview of MVC’s High Court application, which will be heard on 15 and 16 August 2017, that we make this submission.

### **3. Principles for political party funding model**

Any model of public and private funding must support and uphold the Constitution and our democratic electoral system. The principle of transparency, in order to ensure accountability, in our electoral and political systems is crucial. The current environment of secrecy with regards to private political party funding has led to an erosion of trust



and the perception of undue influence in the executive decisions of government, including the appointment of members of the Cabinet, the approval of business contracts between private companies and the state and, more recently, in the setting of government policy. We are cognisant that the current discourse of 'state capture' in the country is incomplete without a discourse on the 'capture' of our political parties.

Transparency and openness is therefore needed as confirmation to the South African public of who supports our democracy through the funding of our political parties. The public's trust in our politics can be rebuilt if there is greater transparency on the part of political parties. Therefore, while trust, inclusive participation and accountability are important principles to consider in crafting a model for public and private funding of political parties, it is the principle of transparency that should be the basis of any recommendations put forward by this Committee.

### **3.1 Proposal on disclosure and transparency requirements**

MVC proposes that there should be frequent and periodic disclosure of donations that political parties receive. The periods for disclosures should be set separately for election years and non-election years (particularly for provincial and national elections), with a change in frequency for the periods directly before provincial and national elections. We know from the tracking of political party donations in other countries that there is an increase in the number of donations directly preceding an election. The increase in donations at this time as well as the public's right to this important information before an election necessitates more timely disclosures on the part of the political parties.

We also propose that a disclosure threshold should be set, with aggregated disclosure information for donations below the threshold amount and disaggregated information on donations above the threshold amount. This proposal is based on the understanding that a large amount of disaggregated information will be of little use to



ordinary South Africans concerned with and/or trying to understand political parties and where they accept funding from. Also, we are in considerate of the administrative burden that the disclosure of all donations, and in particular very small amounts, may have on political parties. We propose further that the Ad Hoc Committee should use the time and resources at its disposal, with the help of economists, to determine an appropriate and meaningful threshold for this disclosure. This determination is not possible for MVC because of the complete lack of information regarding the private funding of political parties. We urge the Ad Hoc Committee to make full use of the powers bestowed upon it through the National Assembly Rule 167 (a), to *'summon any person to appear before it to give evidence on oath or affirmation, or to produce documents'*. The Ad Hoc Committee should use these powers to request information from political parties so that the Committee has a clearer understanding of the funding practices and needs of political parties, and to ensure that the Committee is able to make recommendations that are based on factual information.

The disclosures we envisage above the threshold amount includes, the name of the donor, the amount received from the donor, the date on which the donation was received, and the conditions set for the donation by the donor (if any). The disclosure of donations below the threshold amount should be clearly disclosed as an aggregated sum during reporting. We propose that the IEC should be further capacitated as the oversight body for reporting and disclosures of public and private funding of political parties. The IEC should then make the disclosures and reports public proactively, in an electronic format, soon after receipt.

#### **4. Proposal on private funding**

MVC proposes that the private funding of political parties should be allowed but that consideration for the regulation of private funding proposals should discourage corruption and limit undue influence on our political parties. As indicated in the section



above, private funding should be allowed but the disclosure requirements would differ depending on the amount donated. We believe that setting a threshold for disclosure will allow South African individuals the freedom of association and the right to make political choices. This proposal therefore upholds those rights, but sets a disclosure threshold in order to mitigate the negative consequences of corruption and undue influence by preventing these rights from being practiced in secret.

## 5. Proposal on foreign funding

The MVC proposal on foreign funding is considerate of the need for political parties to have access to financial resources in order to fulfil their constitutionally mandated role. We are also cognisant of the role that foreign resources and support played in bringing forth the current democratic dispensation in the country. We accept, therefore, that it is possible for foreign sources of funding to be intended to support, protect and entrench our democracy. However, we are also aware of the dangers that foreign funding – in an increasingly shrinking global economy where the separation between corporate interests and national interests are sometimes difficult to distinguish – can have on a country's political system. The perception that it could be possible for foreign interests, in the form of countries, companies and individuals, to influence national decisions, be they executive or political, is a gravely dangerous one.

In order to guard against the perception of influence by foreign interests, we propose that there should not be any **direct** funding to political parties from foreign sources. Instead we propose the institution of a fund (private funds), separate to the Represented Political Parties Fund (public funds), into which any donations from foreign sources could be deposited and distributed fairly amongst political parties. In making this proposal, we confirm that foreign interests have no political rights, voting rights or freedom of association rights as enshrined in our constitution. Their role in donating to our political parties would therefore be considered as supportive of our constitutional democracy.



## 6. Proposal on public funding

MVC understands that financial and human resources are required in order for political parties to be effective in implementing their mandate. In fact, public funding is not only necessary but a public good. It is needed in order to relieve some of the pressure on political parties to get money from other sources.

For this reason, MVC does not object to the consideration for an increase in public political party funding. However, we are concerned that the IEC has limited capacity to carry out its oversight role regarding the monitoring and auditing of the reported expenditure by political parties of public funds received through the IEC. We therefore propose that a regulatory model that would ensure transparency in private political party funding and increased public funding should also allow for the Auditor-General to audit the reports on public expenditure provided by political parties. This partnership between the expertise of the Auditor-General and the oversight responsibility of the IEC would instill faith and trust in the distribution and disclosure on public funding to political parties.

We feel that it is also important that the Ad Hoc Committee, heeds the concerns of the public through the current discourse on political party funding. We are very concerned about the secretive environment of money flows pertaining to our political parties. MVC therefore proposes that any increase in public funding to political parties should firstly be reciprocated through greater transparency by political parties on the private funding they receive. It cannot be understated that the South African public has provided public funds to political parties for over 15 years without the public becoming any clearer as to what the political parties' financial needs actually are. Before any consideration is given to an increase in public funding, political parties should be prepared to open their books so that we understand what their real financial needs are, in order for a decision to be made as to whether and to what value public funding could be increased.



## 7.1 Proposal on Local Government level funding

The current public political party funding framework does not allow for public funding distribution to political parties and independent constituency representatives represented in local government municipal councils. This is a concern, as it could be argued that it is political representatives at the local government level that are more accessible and more responsive to the needs of the general public. The objects of local government, as outlined in section 152(1) of the Constitution, are as follows:

- *‘to provide democratic and accountable government for local communities;*
- *to ensure the provision of services to communities in a sustainable manner;*
- *to promote social and economic development;*
- *to promote a safe and healthy environment; and*
- *to encourage the involvement of communities and community organisations in the matters of local government’*

We submit that all the resources of local government should be utilised to achieve these objectives. We are therefore of the view, that it would be negligent to allocate any local government financial resources, be they from the other levels of government or self-generated by the municipality, to political causes. The Committee should also take this opportunity to assess the funding of constituency offices so that a holistic understanding of party funding can be obtained. We propose that funds from the Represented Political Parties Fund should also provide public funds to political representatives at the local government level.

## 7.2 Proposal on Provincial Government level funding

Several provincial legislatures have enacted legislation that allows for funding to political parties from the provincial legislature. The investigation that this Committee has embarked upon allows for an opportunity to consider a more equal and fair provincial funding system unlike the disparate situation that currently exists. The powers of the provincial legislature are included in section 114 of the Constitution.



These powers relate to the legislatures' roles in initiating, preparing, considering, passing, amending or rejecting a Bill, as well as their oversight and accountability role.

We are of the view that concern for the financial resources of political parties should not be the responsibility of provincial legislatures. MVC proposes that the public funding for political parties represented in the provincial legislatures should be distributed from a national Fund only. Provincial funds, whether allocated from national government or self-generated by the provinces, should not be used for political causes.

### **8. Proposal on political party expenditure**

In order for the public to continue to trust our political system and to encourage a greater understanding of our political parties and the conditions under which they operate, we propose that there should be annual public disclosure on expenditure of both private and public funds by political parties. We believe that this level of understanding will engender trust in the democratic principles practiced within our political parties and encourage greater participation in our political system and our political parties.

### **9. Proposal for a “separate fund” for private political donations**

We recognise that political parties need financial resources to operate. And we are of the view that public funds should rather be used to provide the services that the majority of our citizens need every day. MVC therefore proposes, as indicated in point 5 above, that a fund that accepts donations from foreign sources should be established. We propose further that in addition to the threshold (to be determined) as mentioned in point 4, there should be a cap on the amount that any South African individual or company can donate to a political party in any given financial year. South African individuals and companies wishing to donate above the capped amount to a political party would then be allowed to donate to this fund.



Donations to this fund should be without any conditions and the distribution or allocations from this fund should be determined but should not mirror the distribution or allocation from public funds. The differentiation should aim to create fairness between the public funding allocations and private funding allocations towards political parties. In addition, any companies that are contracted to the state, at any level, or that do business with the state should only be allowed to provide funding to political parties through this fund. Any funding from NGO's or trade unions to political parties should also be made through this fund. Political party donors that would like to remain anonymous could also provide funding through this fund.

#### **10. Proposal for a ban on some funding sources**

We are aware that in some instances political parties receive financial resources from State Owned Enterprises (SOEs) through the purchasing of tickets or 'sponsorship of tables' at political party events. How SOEs determine which political party events they will attend and the level of sponsorship (bronze, silver, platinum) they will purchase is not clear. We therefore propose that any form of financial relationship between political parties and SOEs should be banned.

In order to prevent the possibility that there may be attempts to bypass the regulation of private funding to political parties, we propose that 'third party' payments and provisions should be banned. In addition, the model on public and private regulation of political party funding should consider stating the legal and procedural recourse for any transgressions of the regulations that the public may undertake.





## 11. Conclusion

MVC is encouraged by the decision by Parliament to set up this Ad Hoc Committee. We view this as a voluntary commitment by political parties to end the secrecy that surrounds their funding. We are also pleased that recent statements on behalf of the Ad Hoc Committee have upheld the need for greater transparency on political party funding. This submission is in support of the work that the Committee is responsible for. We also request the opportunity to make a verbal submission to the Committee in order to engage further on the proposal herein.



**SUBMISSION TO THE AD HOC COMMITTEE ON THE FUNDING OF POLITICAL PARTIES  
ON THE  
DRAFT POLITICAL PARTY FUNDING BILL 2017**

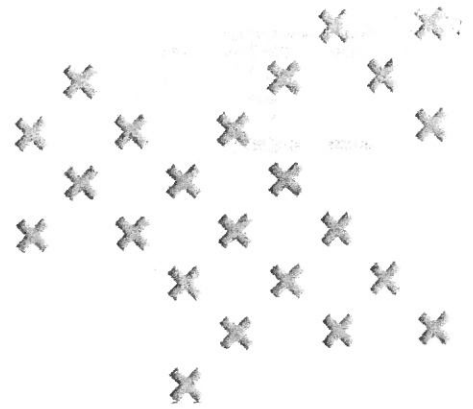
**Date Submitted:** 16 October 2017  
**Submitted To:** Cindy Balie  
Parliament of South Africa  
***Per email:*** [cbalie@parliament.gov.za](mailto:cbalie@parliament.gov.za)

**FOR ATTENTION:** Chairperson of the Ad Hoc Committee on Funding of Political Parties  
Honourable Vincent Smith

**AND TO:** Members of Parliament and of the Ad Hoc Committee  
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**Telephone:** 071 345 1522



## 1. Introduction

My Vote Counts NPC (MVC) welcomes the call for written comment by the Ad Hoc Committee on the Funding of Political Parties (Ad Hoc Committee) on the Draft Political Party Funding Bill 2017, gazette on 19 September 2017. This document serves as MVC's formal written submission to the Ad Hoc Committee in response to the call for comment.

MVC's mission is to improve the accountability, transparency and inclusiveness of elections and politics in the Republic of South Africa generally, including but not limited to:

- campaigning to reform the political party funding system in the Republic, through the introduction of legislation and other regulatory measures;
- campaigning to reform the electoral system of the Republic; and
- creating platforms which aim to unite citizens and organisations in finding democratic solutions to the challenges of our time, with a particular focus on civic, legal and political education.

This submission is divided into two main sections. The first section focusses on specific clauses in the Draft Political Party Funding Bill (the Bill) and MVC's comments regarding these clauses. The second section raises issues that have not been fully addressed by the Bill but which MVC submits should be included in the Bill.

## 2. Comments regarding the DRAFT POLITICAL PARTY FUNDING BILL

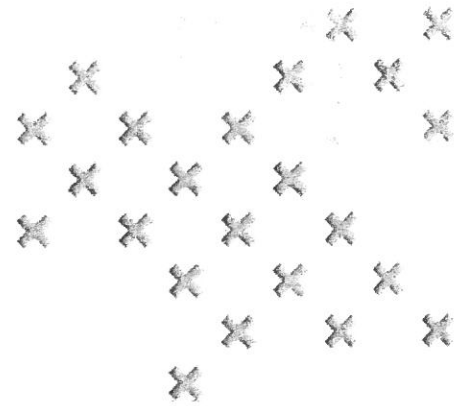
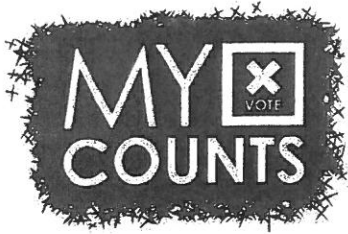
### Definitions:

'represented political party' means a political party with representation in the national and provincial legislatures;

MVC believes that this Bill should provide a comprehensive legal framework for political party funding. This comprehensive framework, as indicated through the written and verbal submissions to this Ad Hoc Committee by many civil society organisations in July and August this year, should include national and provincial legislatures as well as political parties and independent candidates represented in the municipal councils at the local government level.

We propose that the definition should read as follows:

"represented party" means a political party with representation in the national and/or provincial legislatures and/or in the municipal council, and duly elected ward candidates in the municipal councils of the Republic;



**(3) Establishment of Multi-Party Democracy Fund**

*3.(5) Any contributor contemplated in subsection (3)(a) may request the Commission not to disclose their identity or the amount of the contribution.*

**MVC submits that information about donations to the Multi-Party Democracy Fund (MPDF) should be made public. In our previous submission to this Committee we proposed that a separate fund should be established to allow for anonymous donations in support of 'multi-party democracy'. We therefore accept that individuals may choose to keep their identities anonymous when donating to the MPDF, however we do not agree that the amount donated should be withheld. Withholding the amount donated would deny the public information about the number of donations that the MPDF received.**

**We propose that this clause should be amended to read:**

**'Any contributor contemplated in subsection (3)(a) may request the Commission not to disclose their identity.'**

**(5) Management and control of Funds**

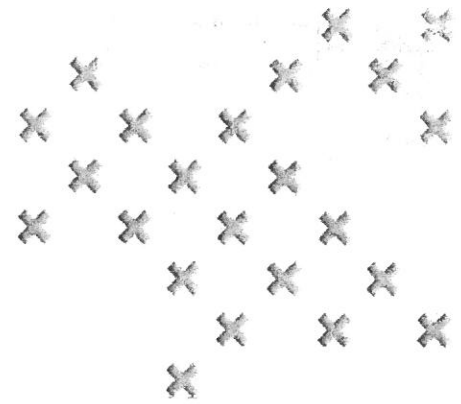
**MVC proposes that a percentage of between 3% and 5% from the funds within the MPDF should be set aside to provide for the resources required to manage the receipt of funds and disclosures pertaining to the MPDF. The regulations should address how the exact amount between 3% and 5% will be determined annually.**

**We propose that the following clause should be added after 5.(2):**

**'5.(3) Between 3% and 5% of the funds deposited into the Multi-Party Democracy Fund must be allocated to the Commission to provide for the financial support required to manage the Multi-Party Democracy Fund.'**

**(6) Allocation and payment of money to represented political party**

**Several organisations have made submissions to this Committee submitting that the current 90/10 allocation split is unfair to smaller political parties. We believe that the decision as to what the percentage allocation from the RPPF and the MPDF should be viewed as a policy issue that must be addressed by this Committee and not be left to regulations. We submit further that this Committee should consider making separate determinations for the allocations from the two funds in order to ensure that smaller political parties are not prejudiced.**



**We propose that the following clauses should be included in this section of the Bill:**

'Allocations from the RPPF to be made and paid to each of the political parties concerned are calculated by –

- (a) Allocating seventy (70) per cent of the total amount of funds on a proportional basis per annum; and
- (b) Allocating thirty (30) per cent of the total amount of funds on an equitable basis per annum.

Allocations from the MPDF to be made and paid to each of the political parties concerned are calculated by –

- (a) Allocating fifty (50) per cent of the total amount of funds on a proportional basis per annum; and
- (b) Allocating fifty (50) per cent of the total amount of funds on an equitable basis per annum.'

**(7) Purposes for which money from these Funds may be used**

*7.(2)(d) for any other prescribed purpose.*

**All purposes for which these funds may be used should be prescribed in this section of the Bill. We propose that this sentence be removed.**

**(8) Direct Funding of Political Parties**

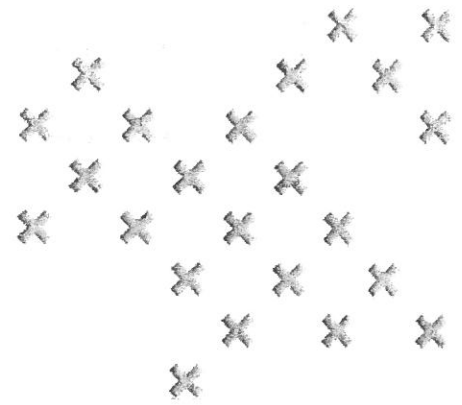
*8. For the purposes of this Chapter –*

*'donation' – includes a donation in kind and a donation made to a member of a political party;*

**MVC does not agree that members of political parties should be allowed to accept donations. The reason for our disagreement is that there will be no regulation of these funds that members of political parties receive or disclosures regarding these donations.**

**We submit that the definition should be amended to read as follows:**

*'donation' – includes a donation in kind and a donation in monetary value made to a political party;'*



*'donation in kind' – (a) includes –  
(i) any money lent to the political party other than on commercial terms;*

**MVC proposes that all donations in kind above the estimated value of R10 000 should be declared as a donation. We submit further that any financial amounts donated to political parties, as a loan (whether on commercial terms or not) above a certain value should be considered a 'donation' and not a 'donation in kind', and should be disclosed as such. The possibility that political parties could receive loans that are later 'written off' and are in all respects 'donations' but are not disclosed as such, cannot be contained or managed and therefore should not be allowed.**

**We submit that this definition 8.(a)(i) 'any money lent to the political part other than on commercial terms', should be removed.**

**(9) Prohibited Donations**

**MVC submits that companies that do business with the state should not be allowed to fund a political party directly. The perception that businesses that do business with the state gain favour because they donate to a particular political party is very damaging to the trust that the public should have in our political system. This perception cannot be managed and should be avoided. Companies that do business with the state should rather donate to the MPDF, if they wish to support political parties.**

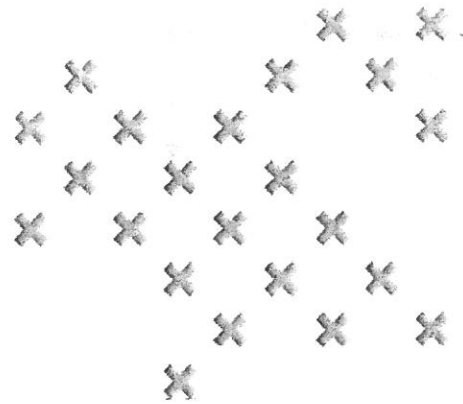
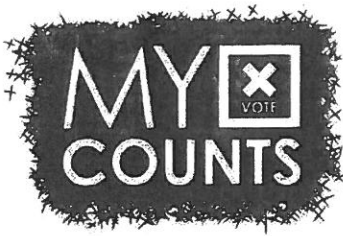
**We therefore submit that the following clause should be included in the Bill after 9.(1)(e):  
'Companies that have a business relationship with any state entity or have had a business relationship with a state entity in the past 24 months.'**

*9.(3) Nothing in subsection (1)(b) prevents a political party or a member of a political party from accepting a donation from a foreign entity for the purpose of –*

- (a) training or skills development of a member of a political party; or*
- (b) policy development of a political party*

**The allowance in this clause is very concerning. The policy development of a political party should never be directly supported by a foreign entity. In essence this means that we are allowing foreign sources to directly support the policy direction of our political parties. The process that a political party undertakes to develop policy could also be lengthy and comprehensive, which means that this allowance could amount to millions of rands of direct funding to political parties for this purpose. The 'training and skills development of a member of a political party could also amount to hundreds of thousands of rands per member of a political party.**

**We submit that section 9.(3)(a) and (b) should be removed from the Bill.**



**(10) Disclosure of donations to political party**

10(1) *A political party must disclose all donations received above the prescribed threshold, to the Commission, in the prescribed form and manner.*

**The threshold over which political parties should disclose information about donations in full should be included in this Act. We submit that this threshold is a very important determination that should be addressed as a policy issue by this Committee. MVC further proposes that a threshold of R10 000 should be considered and that amounts below R10 000 should be disclosed as an aggregated amount.**

**We therefore propose that the clause should be amended to read as follows:**

**'A political party must disclose all donations and donations in kind received above the threshold amount of R10 000, to the Commission, in the prescribed form and manner.'**

**16. Commission's power to issue directions**

16.(2) *The direction must indicate the following sanctions that the Commission may impose if the political party fails to comply with that direction:*

*(d) the cancellation of the registration of the political party in terms of the Electoral Commission Act.*

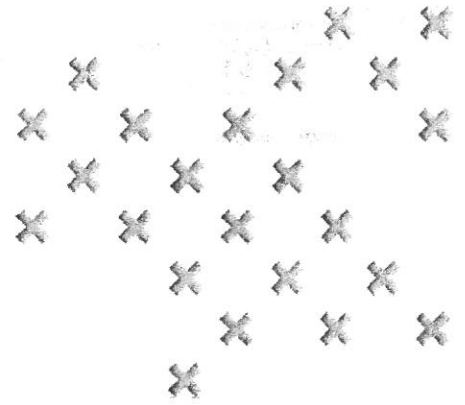
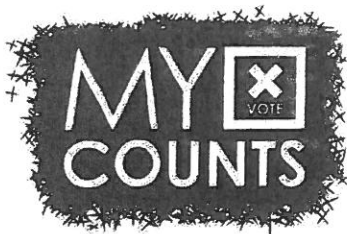
**MVC believes that the cancellation of the registration of a political party may be too harsh a sanction for a political party under the provisions of this Bill. The Bill should rather provide for the Commission to impose a financial fine on the part of the political party and a criminal sanction on the part of the political party representatives, ie. the members of the Party's highest decision-making body and the party's chief financial officer.**

**MVC therefore proposes that 16.(2)(d) should be removed and replaced with this clause as follows:**

**'The direction must indicate the following sanctions that the Commission may impose if the political party fails to comply with that direction:**

**(d) the imposition of an administrative fine amounting to fifty (50) per cent of the donations that the political party received in that financial year;**

**(e) and/or the instituting of criminal charges against the members of the political party's highest decision-making body and the Party's chief financial officer.**



**Schedule 1**

**MVC submits that the amounts included in this schedule are not high enough to discourage transgressions of this Act.**

**We propose the following:**

<i>Previous Contraventions</i>	<i>Contraventions of sections 12, 13(1) to (4) or 14(2) or (3)</i>	<i>Contraventions of sections 9(1), 10(1) or 11</i>
No previous contravention	R300 000	R1 000 000
A previous contravention of the same provision within 2 years	R750 000	R2 000 000
Two previous contraventions of the same provision within 3 years	R1 500 000	R4 000 000
Three previous contraventions of the same provision within 3 years	R3 000 000	R6 000 000
Four previous contraventions of the same provision within 3 years	R5 000 000	R10 000 000

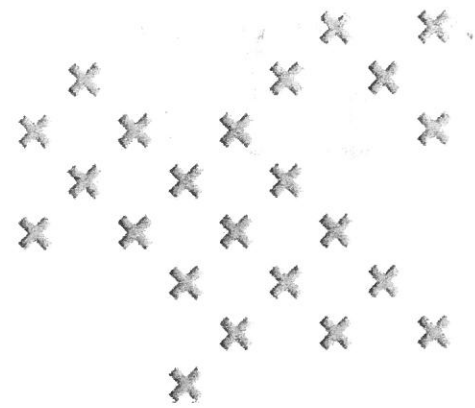
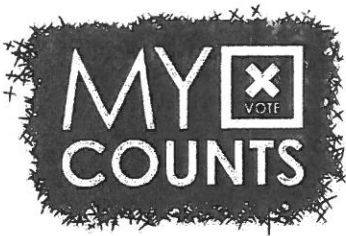
**3. Overall Concerns with the Bill**

**Exclusion of local government level(LGL) political party representation and independent candidates**

We are extremely concerned that the political parties represented at the local government level as well as independent candidates represented in municipal councils are not being considered within the scope of this Bill. We understand that the Ad Hoc Committee has a limited timespan within which to complete its work, however we are of the view that the Committee is able to address the regulation of political funding at this level of government without delaying the passing of this Bill through Parliament.

We propose that the Committee include a section in the Bill that addresses the disclosure requirements for the funding of political parties and independent candidates represented at the local government level. The inclusion of this clause would not require an amendment of the Constitution as it pertains solely to a disclosure mechanism and does not address the public funding of political parties at a local government level.





We propose further that the Committee include a clause that requires Parliament to institute a process to investigate the public funding of political parties and independent candidates represented at the local government level as well as the possible funding of political parties not yet represented in any of the legislatures or municipal councils, and a timeframe in which this process should be finalized.

Too many issues left to Regulations

We are also dismayed that several aspects of political party funding that should be addressed at a policy level is being left to regulations. This includes thresholds, the disclosure mechanism, the allocation to political parties from the MPDF and the RPPF, as well as the necessary cap on donations to political parties. We submit that the Ad Hoc Committee should address these aspects through the current Bill.

**4. Conclusion**

MVC is supportive of the current process undertaken by the Ad Hoc Committee, and makes these comments with the view that this Bill can be improved in order to meet its objectives of comprehensively regulating political party funding. We hope that our comments are considered and also request the opportunity to make a verbal submission to the Committee in order to engage further on the proposals provided herein.