



YEARN FOR ECONOMIC SUSTAINABILITY

YES

P.O.Box 382, Lekhalong, Ha-Thetsane, Maseru 100

Contacts Numbers: +266 5655 9555 / 6404 8081

Email Address: yessecretarygeneral@gmail.com

Website: www.yearn4economicsustainability.wordpress.com



Ref: YES/14/06/2026

14 June 2026

To: Ithabeleng Molefi

Parliament of the Kingdom of Lesotho

Maseru 100

Dear: Ithabeleng Molefi

**SUBMISSION OF THE YEARN FOR ECONOMIC SUSTAINABILITY (YES) TO
PARLIAMENT ON THE NATIONAL ASSEMBLY ELECTORAL (AMENDMENT)
BILL, 2026 TABLED BY HONORABLE MOOTSI LEHATA MEMBER FOR
MAKHALENG CONSTITUENCY.**

INTRODUCTION

The Yearn for Economic Sustainability (YES) respectfully submits this position paper opposing the proposed amendments seeking to allocate Proportional Representation (PR) seats through a "Best Loser" system rather than through Political Party Lists.

YES acknowledges the importance of electoral reform and the need to strengthen democracy in the Kingdom of Lesotho. However, reforms must remain faithful to the Constitution, democratic principles, the spirit of the National Reforms Process, and international best practices.

The proposed Bill fails this constitutional and democratic test.

YES therefore opposes the Bill in its current form.

Lerato..... La Naha.....

THE PEOPLE OF LESOTHO SPOKE DURING THE NATIONAL REFORMS PROCESS

The National Reforms Process was one of the most extensive consultations ever undertaken in Lesotho.

Basotho did not discuss electoral reforms in isolation. They proposed a package of interconnected reforms designed to operate together and create constitutional balance.

Among the issues raised by Basotho were:

- Allocation of PR seats based on electoral performance.
- Equal public funding of political parties.
- Electoral thresholds for political parties.
- Fixed-term Parliament.
- Political stability measures.
- Strengthening multiparty democracy.

These recommendations were intended to complement one another.

It is therefore constitutionally improper to selectively implement one recommendation while ignoring other recommendations that were specifically designed to balance its effects.

SELECTIVE IMPLEMENTATION OF REFORMS CREATES CONSTITUTIONAL IMBALANCE

Supporters of this Bill seek to implement recommendations relating to performance-based PR allocation and electoral thresholds.

However, they ignore recommendations that political parties should receive equal public funding and equal opportunities to compete.

This selective approach creates constitutional imbalance.

Lerato..... La Naha.....

The Constitutional Court has already demonstrated through its consideration of constitutional reforms that not every recommendation emerging from the reforms process automatically becomes constitutional.

Every proposal must be tested against the Constitution of Lesotho, democratic principles, equality, fairness and political participation.

The same constitutional scrutiny must be applied to this Bill.

PROPORTIONAL REPRESENTATION SEATS BELONG TO POLITICAL PARTIES

Constitutional Protection

Section 20 of the Constitution protects freedom of association and participation in political activities.

Political parties are therefore constitutional institutions and not merely election vehicles.

The National Assembly Electoral Act, 2011 further recognizes political parties as the foundation of the proportional representation system.

Section 47 of the National Assembly Electoral Act, 2011

Section 47 establishes party lists as the mechanism through which proportional representation seats are allocated.

This confirms that:

- PR seats are party seats;
- PR seats are not constituency seats;
- PR seats are calculated from national party support; and
- Political parties are the constitutional beneficiaries of proportional representation.

The proposed Bill fundamentally changes the character of proportional representation without first changing the constitutional philosophy upon which the electoral system is built.

Lerato..... La Naha.....

THE PROPOSED BILL UNDERMINES THE PURPOSE OF PROPORTIONAL REPRESENTATION

The purpose of proportional representation is to compensate political parties whose national support is not adequately reflected through constituency elections.

PR seats were never intended to become a second constituency competition.

The proposed Best Loser model converts proportional representation into an extension of constituency contests.

This defeats the very purpose of the Mixed Member Proportional (MMP) system adopted by Lesotho.

Instead of correcting disproportionality, it rewards individual constituency performance.

Such an approach undermines party proportionality and weakens political parties.

THE 0.4% THRESHOLD IS UNFAIR WITHOUT EQUAL FUNDING

Sections 70 and 71 of the National Assembly Electoral Act is discriminatory already and now this bill impose a 0.4% threshold requirement which now makes it deeply unconstitutional.

YES submits that the threshold cannot be considered fairly or constitutionally in isolation.

Political parties do not compete on equal terms.

Currently:

- Political parties represented in Parliament receive annual public funding.
- Political parties during election do not receive equal funding.
- Political parties outside Parliament receive no comparable public funding.
- Parliamentary parties enjoy significant institutional advantages.
- Smaller parties survive through personal contributions from leaders and supporters.

Lerato..... La Naha.....

A threshold assumes equal opportunity.

However, equal opportunity does not exist where State resources are distributed unequally.

Applying the same threshold to parties operating under fundamentally unequal conditions may amount to indirect discrimination contrary to Section 18 of the Constitution.

The principle is simple:

There can be no constitutional threshold without constitutional equality.

POLITICAL PARTIES INVEST IN THE ELECTORAL PROCESS

Political parties:

- pay M8000.00 for PR Seat not individual;
- organize national structures;
- maintain offices;
- recruit candidates;
- develop manifestos;
- conduct campaigns;
- mobilize voters; and
- Sustain political activity between elections.

Political parties also incur significant costs associated with PR nominations and electoral administration.

They do so with the legitimate expectation that proportional representation seats will remain party-based seats.

The proposed Bill removes benefits from political parties while retaining their financial burdens.

This is inconsistent with principles of fairness and legitimate expectation.

Lerato..... La Naha.....

RURAL AND URBAN DISTORTIONS

The proposed system ignores the reality that political support differs significantly between rural and urban constituencies.

Certain parties traditionally perform strongly in rural constituencies.

Other parties traditionally perform strongly in urban constituencies.

A candidate obtaining a high percentage in one constituency does not necessarily demonstrate stronger national support than a candidate competing in a very different political environment.

The Best Loser model therefore risks creating regional distortions and undermining the national balancing purpose of proportional representation.

BASOTHO OFTEN VOTE FOR PARTIES AND THEIR LEADERS

Recent elections have demonstrated that many voters support political parties primarily because of:

- party leadership;
- party policies;
- party identity; and
- National political vision.

The electoral success of major parties in recent elections demonstrates that voters frequently vote for the party brand and leadership rather than individual constituency candidates.

Consequently, PR seats should remain attached to the political party that received the national support of voters.

INTERNATIONAL COMPARATIVE EXPERIENCE

Countries operating successful proportional representation systems have generally retained party control over proportional representation lists.

Lerato..... La Naha.....

Germany

Article 21 of the German Basic Law recognizes political parties as constitutional institutions participating in the formation of the political will of the people.

Germany has retained party-list proportional representation and has not adopted a Best Loser model because proportionality and party representation remain central principles of the system.

New Zealand

New Zealand's Mixed Member Proportional system continues to rely on party lists.

Electoral reform bodies repeatedly concluded that party lists are essential to maintaining proportionality and democratic balance.

South Africa

South Africa has consistently retained party-based proportional representation.

The Constitutional Court in *Ramakatsa and Others v Magashule and Others* (2012) emphasised the constitutional importance of political parties as democratic institutions.

Mauritius

Mauritius remains one of the few countries using a Best Loser system.

However, the system has generated continuous constitutional and political debate, with many reform advocates calling for significant changes because of concerns relating to fairness, legitimacy and representation.

The Mauritian experience serves as a warning rather than a model for Lesotho.

CONCLUSION

YES respectfully submits that:

Lerato..... La Naha.....

1. PR seats belong to political parties and not individual constituency candidates.
2. Section 20 of the Constitution protects the institutional role of political parties.
3. Section 47 of the National Assembly Electoral Act establishes party-list proportional representation.
4. The proposed Best Loser model undermines the purpose of proportional representation.
5. The 0.4% threshold cannot be justified while political parties are not funded equally.
6. Selective implementation of reform recommendations violates the spirit of the National Reforms Process.
7. Electoral reforms must be implemented as a balanced constitutional package.
8. The Bill is vulnerable to constitutional challenge under Sections 18 and 20 of the Constitution.
9. Parliament should reject the Bill in its current form.

YES therefore calls upon Parliament to preserve constitutional democracy, political equality, multiparty participation and the integrity of the proportional representation system in the Kingdom of Lesotho.

Yours Faithfully



Molefi Ntsonyana

President

YEARN FOR ECONOMIC SUSTAINABILITY (YES)

Lerato..... La Naha.....