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**IKhomishani  
yamaQiniso  
nokuBuyisana**

# **IKhomishani yamaQiniso nokuBuyisana**

**Ishicilelwe  
yi-Justice In Transition  
egameni le-Ministri yezoBulungiswa**

# Isemdlalelo

nguDokotela Alex Boraine

Ngomhla ka 19 Meyi, uPresidenti Mandela wasayina uMthetho-sivivinywa (ibhili) osihloko sithi "Promotion of National Unity and Reconciliation", wayenza umthetho. Lomthetho uthi uPresidenti uyokhetha iKhomishani "ngokubonisana nekhabinethi yakhe".

Kuyosetshenziswa imigomo ethize ebekwe nguPresidenti, ukuqinisekisa ukuthi kuyaboniswa. Lokhu kubonisana kuyoholela ekusungulweni kweKhomishani eliyobhekana nomsebenzi omkhulu ofanele wenziwe yiKhomishani.

Kunesifiso sokuthi iKhomishani libe selisebenza ungakapheli unyaka ka 1995. IKhomishani liyobhekana namasu okuxhumana afanele. Lephamflethi (pamphlet) lenzelwe ukuthi lifundwe ngabantu abanengi, kanti futhi linolwazi olubalulekile olumayelana namaphuzo iKhomishani ezobe ibhekene nawo.

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# Okuqukethwe

1. Isingeniso sethulwa yiMinista  
(uNgqongqoshe) yezoBulungiswa,  
uMnumzane Dullah Omar 1
2. Izinhloso zeKhomishani 5
3. Imisebenzi yeKhomishani 7
4. Ukubunjwa kweKhomishani 10
5. Ukwakheka kweKhomishani 12
6. Labo abahlukunyezwa ngenxa yokucekelwa  
phansi kwamalungelo obuntu 21
7. Izakhiwo zokwesekela iKhomishani 23
8. Imibuzo nezimpendulo 25
9. Izinhloso zeKhomishani 28

# Isingeniso sethulwa

yiMinista (uNgqongqoshe) yezoBulungiswa

uMnumzane Dullah Omar

Emuva kwezingxoxo nezimpikiswano ezithathe isikhathi eside ebezenzeka ngaphakathi nangaphandle kwePhalamende, konke sekulungele ukukhethwa kweKhomishani yamaQiniso nokuBuyisana. Kubalulekile ukuthi siqonde ngesimo iKhomishani yamaQiniso nokuBuyisana ezosebenza kuso. IKhomishani isuselwe esigatshaneni sokugcina somthetho-sisekelo wesikhashana ofundeka kanje:

Lo Mthetho-sisekelo uyingqophamlando ekwakheni amabhuloho ahlanganisa umlando wesizwe esihlukaniseke ngendlela emangazayo sibe sinjalo nje sinemibango, ukungqubuzana, ukuhlupheka okwesabekayo kanye nokucekelwa phansi kwamalungelo obuntu okuhlasimulisa umzimba, lama bhuloho owelisela isizwe kwikusasa elinensika egxile ekuhlonishweni kwamalungelo obuntu, idemokhrasi kanye nokuhlalisana ngoxolo kanye namathuba entuthuko kubo bonke abantu baseNingizimu Afrika, ngaphandle kokubheka ibala, ubuzwe, izinga lempilo, inkolelo kumbe ubulili.

Intshisekelo yokwakha ubumbano lukazwelonke, inhlalalakahte yazo zonke izakhamuzi zaseNingizimu Afrika kanye noxolo idinga ukuba kube nokubuyisana phakathi kwabantu baseNingizimu Afrika, kube khona nokwakhiwa kabusha kwesizwe.

Ukwamukelwa kwalo Mithetho-sisekelo kunika abantu baseNingizimu Afrika isisekelo esizobasiza ukuze baphume kwihlukano kanye nokungqubuzana kwesikhathi esedlule, obekutshala umoya wokungahlonishwa kwamalungelo obuntu ngendlela eyesabisayo, ukulahlekelwa ngumoya wobuntu ezikhathini zezimpi okuhambisana nomlando omubi wenzondo, ukwesaba, ukuzinyeza kanye nokuziphindiselela.

Zonke lezi zinto manje sesingabhekana nazo sihamba ngomoya wokuthi kunesidingo sokubonelelana kodwa hhayi sokuziphindiselela, kunesidingo sokulungisa umonakalo hhayi sokubuyisela, isidingo sobuntu kodwa hhayi sokwesabisa.

Ukuze kuphumelele imizamo yalokho kubuyisana kanye nokwakha kabusha isizwe, kuzoxolelwa labo abathintekayo kwizenzo, ukuhluleka ukwenza obekufanele, kanye namacala aphaathelene nokufeza izinjongo zepolitiki, futhi okwenziwa ngesikhathi sokungqubuzana kwesikhathi esedlule. Ukuze kwenziwe lokhu, iPhalamende ngaphansi kwalo Mithetho-sisekelo kufanele libeke umthetho ozonquma mayelana nosuku okuyogcinwa kulo, okufanele kube lusuku olungemuva komhla ka-8 Okthoba 1993, futhi lolu suku libeke izindlela, amazinga kanye nenqubo ezolandelwa, okubandakanya izinkundla (tribunals), uma zidingeka, ezizosetshenziswa ukulalela izicelo zokuxolelwa nganoma yiziphi izikhathi emva kokuba lowo mithetho usuphasisiwe.

Ngalo Mthetho-sisekelo, kanye nokuzinikela kwethu, thina bantu baseNingizimu Afrika, siqala impilo entsha emlandweni wezwe lethu.

Bengingahamba ngiye ePhalamende bese ngenza umthetho wokuxolela – kodwa lokhu bekuyofana nokuthi angibakhathalele neze abantu abahlukunyezwa wudlame. Sabona ukuthi sasingeke sivele sixolele abaphehli bodlame ngaphandle kokubuyisa isithunzi salabo abahlukunyezwa bese kuqala ukulungiswa lokho okwakoniwe.

Ukuxolelwa kufanele kusebenze kuyo yonke indawo, futhi wonke amanxeba abantu kufanele athotshwe. Lapha angehlukani phakathi kwamaxeba e-ANC, e-PAC, kanye namanye – baningi abantu abadinga ukuthotshwa amanxeba. Sidinga ukupholisa amanxeba esizwe sethu futhi sikwazi ukwakha isizwe esiqinisekile ngoxolo nokusimama.

Umbuzo obalulekile okufanele sizibuze wona ngowokuthi, abantu baseNingizimu Afrika bangabhekana kanjani nalokho okwenzeka kudala. Ukuzama ukuphendula lombuzo obalulekile ngobuqotho, kanye nangokungafihli lutho, sinenhlanhla yokuthi sibe noPresidenti ozinikele ekubuyisaneni okuqotho kanye nasekuguquleni iNingizimu Afrika ibe yizwe le-demokhrasi elingabandlululi ngokwebala nangokobulili, ngaphansi kwesisekelo samalungelo obuntu amukelwe umhlaba wonke.

UPresidenti ukholelwa ekutheni – kanti iningi lethu liyameseka kulenkolelo – amaqiniso mayelana nokucekelwa phansi kwamalungelo obuntu ezweni lethu angeke agodlwa, noma akhohlakale. Lamaqiniso kudingeka acwaningwe, abhalwe phansi, futhi aziwe. Ngakho-ke uPresidenti uyakweseka ukubunjwa



kweKhomishani yamaQiniso nokuBuyisana. Uhulumeni wedemokhrasi uzinikele ekwakhiweni kwesiko lamalungelo obuntu ezweni lethu.

Kukhona ukuzinikela ukuthi kwehlukane nosekwadlula, kupholiswe amaxeba ezenzo esezadlula, kuxolelwane kodwa kungakhohlakali okwenzeka, futhi kwakhiwe ikusasa elinesisekelo sokuhlonipha amalungelo obuntu. Lesi simo esisha ngamalungelo obuntu eNingizimu Afrika, sibeka umsebenzi omkhulu emahlombe ethu. Amalungelo obuntu awasona isipho esiqhamuka kuhulumeni siya kulezo zakhamuzi ezithembekile. Ayilungelo laleso naleso sakhamuzi. Eminye yemisebenzi esibhekene nayo wukusiza ukuthi sihlahle indlela eya phambili, futhi sinike iNingizimu Afrika izilinganiso noma imigudu esuselwe olwazini lwamazwe ngamazwe, njengoba sibhekene nezinguquko. Kufanele siqaphele izingozi kanye nezikhubekisol Kufanele sibandakanye zonke izakhamuzi ezingxoxweni ukuqinisekisa ukuthi amalungelo obuntu awabekelwe kuphela idlanzana labantu, kodwa ayilungelo lazo zonke izakhamuzi! Sifanele sithathe uhambo sisuka kosekwadlula, sidlule ezinguqukweni, siye ekusaseni elisha.

Ngifisa ukugcizelela ukuthi inhloso yalomsebenzi akukhona ukuphuma umkhankaso, kuhanjwe kuzingelwa abantu, noma ukudonsela labo abacekela phansi amalungelo obuntu enkantolo ukuze babhekane namacala. Kodwa kufanele kugcizelelwe ukuthi ikhomishani lidingekile ukuthi libe khona ukuze abantu baseNingizimu Afrika bakwazi ukubhekana nalokho osekwadlula ngendlela elungile, futhi abantu bakwazi ukubuyisana.

Ngiyanimema ukuba nibambe iqhaza ekutholweni kwamaqiniso, ngoba ngaphandle kwawo ngeke kwaba khona ukubuyisana okuqotho.

# Izinhloso zeKhomishani

Izinhloso zeKhomishani kuyoba wukukhuthaza ubunye nokubuyisana ngomoya wozwelo ozonqoba ukungqubuzana nokwehlukana okwakwenzeka ngesikhathi esedlule ngokuthi:

- ngokuthi kuzanywe ngawo wonke amandla ukuthi kuvezwe isithombe esigcwele sezisusa, isimo, kanye nokujula kwamacala okucekela phansi amalungelo obuntu. Lamacala ayenziwe ngesikhathi kusukela mhlaka 1 Mashi 1960 kuze kube ngusuku olunqunyiwe. Lapha kufakwa namacala andulela lesisikhathi, izimo, imibandela nomongo wamacala, imibono yabantu abahlukumezeka, nezinhloso nemibono yabantu abenza lamacala, ngokuthi kucwaningwe ngawo, futhi kube khona izinkundla lapho kwethulwa khona ulwazi (hearings);
- iKhomishani lizokwenza ukuxolelwa kwabantu abakhipha wonke amaqiniso okuyiwonawona amayelana nezenzo ezihlangene nenhloso yezepolitiki, futhi ahambisana nezidingo zoMthetho (Act) we-Promotion of National Unity and Reconciliation;

- iKhomishani lizoveza futhi lazise ngokuthi kwenzekani ngalabo bantu abahlukunyezwa nokuthi bakuphi labo bantu abahlukumezeka, nangokuthi kubuyiswe isithunzi sobuntu nesokuba yisakhamuzi, ngokubanika ithuba lokuthi nabo bethule ulwazi lwabo ngalokho abahlukunyezwa ngakho, nangokuthi kubekwe iziphakamiso mayelana nezindlela zokubanxephezela.
  
- iKhomishani lizokwenza umbiko oqukethe ulwazi olugcwele ngezenzo, kanye nalokho okutholwe yiKhomishani, futhi oqukethe iziphakamiso mayelana nezindlela zokuvimbela ukucekelwa phansi kwamalungelo obuntu.

# Imisebenzi yeKhomishani

Imisebenzi yeKhomishani kuyoba wukufeza izinhloso zayo, kanti lokhu iKhomishani lizokwenza ngokulandelayo:

- lizolekelela, kuthi lapho kunesidingo khona lisungule noma lenze ukuthi ucwaningo luhanjiswa kahle mayelana:
  - nokucekelwa phansi kwamalungelo obuntu, okubandakanya ukuhlukumezeka okwakuhleliwe;
  - iKhomishani liyokwenza nocwaningo ngohlobo, izimbangela nokujula kokucekelwa phansi kwamalungelo obuntu, okubandakanya lokho okwenzeka ngaphambili, isimo, imibandela, isimo lapho ukuhlukumezeka kwakwenzeka khona, izimbangela kanye nendlela abantu ababebona ngayo, okwaholela ekutheni lamalungelo acekelwe phansi;
  - iKhomishani liyokwazisa bonke abantu, izikhulu, izikhungo kanye nezinhlango ezibandakanyekayo kulokhu kucekelwa phansi kwamalungelo obuntu;
  - iKhomishani kumele libhekane nombandela wokuthi ingabe lokhu kucekelwa phansi kwamalungelo kwakuwumphumela owawuhloswe nguHulumeni, noma nguhulumeni omdala, noma enye yezingxenye zakhe, noma kwakuyinhloso yanoma iyiphi inhlango yezepolitiki, inhlango elwela inkululeko noma yiliphi iqembu noma umuntu othize;

- iKhomishani liyobheka nokuthi wobani abanokuziphendulela, nokuthi ingabe lokho kucekelwa phansi kwamalungelo kwakwenziwa ngenhloso yezepolitiki noma cha;
- iKhomishani lizokwelekelela, lisungule noma lenze ukuthi kuhambe kahle ukuqoqwa kombiko nokwamukelwa kobufakazi kunoma umuphi umuntu, ngisho nalabo bantu abathi bahlukumezeka ngenxa yokucekelwa phansi kwamalungelo abo, noma labo ababamele. Lokhu kuzoveza ulwazi ngalabo bantu abahlukumezeka ngokucekelwa phansi kwamalungelo obuntu, ukuthi bangobani, kwenzekani ngabo nokuthi bakuphi, kanye nesimo nokujula kokulimala abakuthola;
- iKhomishani lizokwelekelela futhi likhuthaze ukuxolelwa ngenxa yalezo zenzo ezihambisana nezinhloso zezepolitiki, ngokuthi kwamukelwe kulabo bantu abazimisele ukukhipha lonke ulwazi oluqondene nalezi zenzo, izicelo (applications) zokuxolelwa ngenxa yalezi zenzo, bese lezi zicelo zidluliselwa kwiKomiti lokuXolelwa (Committee on Amnesty) ukuthi lenze izinqumo. Ukuxolelwa kuzolekelelwa futhi kukhuthazwe ngokuthi iKhomishani likhiphe (publish) izinqumo mayelana nokuxolelwa kwiGazethi kaHulumeni;
- iKhomishani lizonquma ukuthi yibuphi ubufakazi oboniwa noma obadatshulwa yinoma umuphi umuntu ukuze kufihlwe ukucekelwa phansi kwamalungelo obuntu noma kufihlwe izenzo ezihambisana nezinhloso zepolitiki;

- iKhomishani lizolungisa umbiko oneminingwane yonke, obala yonke imisebenzi yalo nalokho elikutholile. Lombiko uyobe ususelwe olwazini nasebufakazini obuyiqiniso obaqoqwa noma obamukelwa yiKhomishani, noma babekwa ukuze butholakale;
- iKhomishani lizobeka iziphakamiso kuPresidenti ezimayelana:
  - nomgomo okufanele ulandelwe, noma izindlela okufanele zithathwe mayelana nokunikezwa kwezinxephezelo kulabo abahlukunyezwa, noma ukusetshenziswa kwezinye izindlela ezihlose ukubuyisa isithunzi sobuntu nokuba yisakhamuzi kwalabo abahlukunyezwa;
  - iKhomishani lizobeka iziphakamiso kuPresidenti ezimayelana nezindlela okufanele zithathwe ukunikeza ngokushesha izinxephezelo zesikhashana kulabo abahlukumezeka;
- iKhomishani lizokwenza iziphakamiso kuMinista mayelana nokuthuthukiswa kohlelo lokuvikela ofakazi ngokulandela loMithetho (Act) wePhalamende;
- iKhomishani lizokwenza iziphakamiso kuPresidenti (uMongameli) mayelana nokwakhiwa kwezikhungo eziyokwenza ukuthi kube nomphakathi osimeme futhi oqotho, kanye nezindlela zokuthi kwakhiwe izikhungo, ezokuphatha, futhi kubekwe imithetho. Lezi zindlela zingathathwa noma zingavezwa ukuze kunqandwe ukucekelwa phansi kwamalungelo obuntu.

# Ukubunjwa kweKhomishani

- IKhomishani lizoba namakhomishina (commissioners) angekho ngaphansi kwesibalo sika-11, futhi angeqile ku-17, ngokunquma kukaPresidenti exoxisane neKhabhinethi.
- UPresidenti uzokhetha amakhomishina ngokuxoxisana neKhabhinethi.
- Amakhomishina kuzoba ngabantu abafanele nabawulungele lomsebenzi, abangakhethi hlangothi, futhi abangekho ezikhundleni eziphezulu kwezepolitiki, kanti kufanele bangeqi kwababili abantu abangezona izakhamuzi zaseNingizimu Afrika abangakhethwa ukuthi babe ngamakhomishina.
- UPresidenti uyokwazisa ukukhethwa kwamakhomishina ngokumemezela kwi-Gazethi kaHulumeni.
- UPresidenti uyoqoka oyedwa wamakhomishina ukuthi abe nguSihlalo, bese omunye abe nguSekela kaSihlalo weKhomishani.
- Ikhomishina ebekwe ngokoMthetho iyosibamba lesi sikhundla kuze kuphele isikhathi seKhomishani.
- Ikhomishina ingaphuma esikhundleni njengekhomishina ngokuthi ibhalele uPresidenti incwadi yokuyeka.

- UPresidenti angayiyekisa ikhomishina emsebenzini ngesizathu sokungaziphathi kahle, ukwehluleka noma ukungasebenzi ngemfanelo, ngokubona kwekomiti elihlangene (joint committee), kanye nalapho kwamukelwa umyalezo ophuma kuMkhandlu kaZwelonke (National Assembly) nakwiSinethi.
  
- Umangabe noma iyiphi ikhomishina yethula incwadi yayo yokuyeka ukusebenza, noma uma iyekiswa ukusebenza, noma uma ishona, uPresidenti ngokuxoxisana neKhabhinethi, angasigcwalisa lesi sikhala ngokukhetha omunye umuntu, ukuthi asebenze ngalesi sikhathi esesisele, noma angasiyeka lesi sikhala singagcwaliswa muntu.



# Ukwakheka kweKhomishani

## Ikomiti elibhekene nokucekelwa phansi kwamalungelo obuntu

Ngaphandle kwalawo mandla nemisebenzi okukhulunywe ngayo ngaphansi kwesihloko esithi Imisebenzi yeKhomishani, leliKomiti liyobhekana nokucekelwa phansi kwamalungelo obuntu okwenzeka phakathi komhlaka 1 Mashi 1960 no 9 Meyi 1995 okuxolelwe. Liyophinde futhi libhekane nokucekelwa phansi kwamalungelo obuntu iziboshwa ezakhululelwa khona, noma amacala azo asulwa ngesizathu sokubuyisana, kanye nokuthola isixazululo esinokuthula ngaleso sikhathi.

IKomiti lingabhala phansi leyo mibiko engakabi nabo ubufakazi (allegations) nezikhalo ezimayelana nokucekelwa phansi kwamalungelo obuntu ngendlela eyesabisayo.

IKomiti elibhekene nokucekelwa phansi kwamalungelo obuntu lingenza futhi lokhu okulandelayo:

- iKomiti elibhekene nokucekelwa phansi kwamalungelo obuntu lingaqoqa noma lamukele izinto (articles) eziqhamuka kunoma iyiphi inhlango, ikhomishani, noma umuntu, eziphathelene nokungahlonishwa kwamalungelo obuntu;

- iKomiti elibhekene nokucekelwa phansi kwamalungelo obuntu lingabeka iziphakamiso kwiKhomishani njengoba kushiwo ngaphansi kwesihloko esithi Imisebenzi kaKhomishani;
- iKomiti elibhekene nokucekelwa phansi kwamalungelo obuntu lingenza lolo lwazi oluphethwe yikomiti, ukuthi lutholakale kwenye yamakomiti amanye amabili, ikomiti elincane (subcommitte) noma ikomiti eliphathelene nokuphenywa kwamacala (investigating unit);
- iKomiti elibhekene nokucekelwa phansi kwamalungelo obuntu lingahambisa imibiko yesikhashana kwiKhomishani. Lemibiko izobe isho ukuthi ngabe iKomiti selihambe kangakanani ngomsebenzi walo, noma mayelana nanoma yikuphi okunye;

IKomiti elibhekene nokucekelwa phansi kwamalungelo obuntu lizowasebenzisa amandla okuphenya anikezwe iKhomishani kwiSahluko 6 neSahluko 7 kuloMithetho (Act). Lokhu kubandakanya ukusungulwa kweKomiti loPhenyo (Investigating Unit) elizophenya ngakho konke okungaphansi kwamandla eKhomishani, lilandela leyo misebenzi elibekelwe yona ngokwelulekwa yiKhomishani. IKomiti loPhenyo lizophenya nganoma yini engaphansi kwamandla alo, lapho licelwe yiKomiti elibhekene nokucekelwa phansi kwamalungelo obuntu, ngokulandela imisebenzi iKomiti elibekelwe yona futhi ngokwelulekwa yiKomiti.

## IKomiti Elibhekene nokuXolelwa

LeliKomiti lizokwelekelela futhi likhuthaze ukuxolelwa ngokwezenzo ezihambisana nezinhloso zepolitiki. Lokhu kuzokwenziwa ngokuthi kwamukelwe, kulabo bantu abafisa ukukhipha lonke ulwazi oluqondene nalendaba, izicelo zokuxolelwa ngenxa yalezi zenzo, nangokuthi kushicilelwe (publish) izinqumo zokuxolelwa kwiGazethi kaHulumeni.

Noma ngubani ofisa ukucela ukuxolelwa angenza isicelo zingakapheli izinyanga ezingu-12 kusukela ngosuku lwesimemezelo, angafaka isicelo kwiKhomishani agcwalise ifomu egunyaziwe. Ukwethulwa kobufakazi (hearings) phambi kweKomiti lezokuXolela (Amnesty Committee) okuzoba kulona iJaji laseNkantolo eNkulu (Supreme Court) elizoba ngusihlalo, kuyokwenziwa phambi komphakathi, ngaphandle uma usihlalo nekomiti bebona ukuthi lokhu kungabeka engozini impilo yalowo ofakazayo, noma uma kungathikameza ukuqhubeka kwesisekelo samalungelo obuntu.

Inqubo ingenzeka ngezindlela ezehlukene. Uma iKomiti lanelisekile ukuthi zonke izidingo zifeziwe, lingathi lapho selithole ifomu yesicelo, bese linquma ukuthi asikho isidingo sokulalela ubufakazi futhi leso senzo noma icala okukhulunywa ngalo esicelweni alibonisi ukucekelwa phansi kwamalungelo okukhulu. Ikomiti lingaxolela umfaki-sicelo ngisho engekho, futhi nangaphandle kokulalela ubufakazi enkundleni bese umfaki-sicelo aziswa ngakho.

Nokho-ke, uma iKomiti libona kudingekile ukuthi bulalelwe ubufakazi, liyobe selazisa lowo muntu ngesikhathi kanye nendawo lapho ubufakazi buyolalelwa khona. IKomiti liyobe selibhekana nesicelo ngokuthi linikeze noma lenqabe ukuxolela lowomuntu. Enye yemibandela ebekiwe ngokuthi umfaki-sicelo kufanele akhiphe lonke ulwazi oluqondene nezenzo zakhe. IKomiti liyosebenza ngokulandela imigomo ethize ebekiwe:

- isisusa esenza ukuthi umuntu enze lokhu akwenza, angenzi okwakufanele akwenze, noma enze icala;
- isimo isenzo esenzelwa kuso, sokungenzi okwakufanele kwenziwe, noma sokwenza icala, ikakhulukazi uma icala lenziwa ngesikhathi noma njengengxenywe yezepolitiki, ngesikhathi sodlame, noma lapho umuntu ephindisela kulezi zenzo;
- ukuthi ingabe umthetho uthini mayelana nesenzo, ukungenzi okwakufanele kwenziwe, noma icala, nokuthi lesi senzo, ukungenzi okwakufanele kwenziwe, noma icala, kujule kangakanani;
- inhloso yokwenza lesi senzo, yokungenzi okwakufanele kwenziwe noma yokwenza icala, ikakhulukazi ukuthi ingabe isenzo, ukungenzi okwakufanele kwenziwe, noma icala, kwakubhekiswe ngqo kwisitha sezepolitiki, kwimpahla kaHulumeni, kubasebenzi, kwimpahla okungeyona ekahulumeni, noma kubantu;

- ❑ ukuthi ingabe isenzo, ukungenzi okwakufanele kwenziwe, noma icala, kwenziwa ngokulandela umyalo wenhlangano, isikhungo, inhlangano elwela inkululeko, noma inhlangano lapho umuntu owenze icala elilungu layo, eyisithunywa, noma engumlandeli;
- ❑ ubudlelwane phakathi kwesenzo, ukungenzi okwakufanele kwenziwe, noma icala, kanye nokufezwa kwenhloso yezepolitiki, ikakhulukazi ukukhanya nokusondelana kobudlelwane, kanye nokulingana kwesenzo, ukungenzi okwakufanele kwenziwe noma icala, nenhloso yakho.

Kodwa-ke lokhu akubandakanyi isenzo, ukungenzi okwakufanele kwenziwe noma icala, okwenziwe ngumuntu okukhulunywa ngaye esigatshaneni (2) soMthetho esikhuluma ngomuntu owenze icala:

- ❑ Umuntu owenze icala ukuze kuzuze yena: Uma isenzo, ukungenzi okufanele kwenziwe noma icala, kwenziwe ngumuntu wathola imali noma yini enye ebalulekile, kade esebenza njengempimpi kaHulumeni noma uhulumeni omdala, inhlangano yezepolitiki noma inhlangano elwela inkululeko, angeke akhishwe kuphela ngesizathu sokuthi uthole imali noma into ebalulekile ngolwazi lwakhe; noma
- ❑ Umuntu owenze icala ngenxa yenhliziyi embi ngoma amagqubu abhekiswe kulowo owahlukumezeka ngenxa yamacala enziwa.

## **IKomiti elibhekene nokunxeshezela nokubuyiselwa kwabantu**

- IKomiti elibhekene nokunxeshezela nokubuyiselwa kwabantu lizobhekana nalezo zinto elizinikezwe yiKhomishani, yiKomiti elibhekene nokucekela phansi kwamalungelo obuntu, kanye neKomiti elibhekene nokuXolelwa;
- IKomiti elibhekene nokunxeshezela nokubuyiselwa kwabantu lizophinde liqoqe ubufakazi obumayelana nokwaziswa kwabantu abahlukunyezwa (identity), isimo abantu abahlukunyezwa abakuso njengamanje, nokuthi ingabe bakuphi, kanye nohlobo nokujula kokuhlukunyezwa kwabo;

IKomiti lingenza lokhu okulandelayo:

- IKomithi elibhekene nokunxeshezela nokubuyiselwa kwabantu lingenza iziphakamiso ezingabandakanya izindlela eziphuthumayo zesikhashana ezimayelana nezindlela zokunxephezela labo abahlukunyezwa;

- IKomiti elibhekene nokunxeshezela nokubuyiselwa kwabantu lingenza iziphakamiso ezimayelana nokwakhiwa kwezikhungo ezizosiza ukwakha umphakathi osimeme futhi ongakhethi hlangothi, kanye nezindlela okudingeka zithathwe ukuvimbela ukucekelwa phansi kwamalungelo obuntu;
- IKomiti lingalungisa bese liletha kwiKhomishani imibiko (reports) yesikhashana emayelana nokusebenza kwalo;

IKomiti lizohambisa kwiKhomishani umbiko onayo yonke imininingwane emayelana nokusebenza kwalo, umbiko ngalokho eselikutholile nangeziphakamiso.

IKomiti lizovumbulula futhi lazise ngokuthi abantu abahlukunyezwa kwenzekani ngabo nokuthi bakuphi. Lizobuyisa isithunzi sobuntu nesokuba yisakhamuzi salabo abahlukunyezwa, ngokuthi libanikeze ithuba lokuthi babeke nabo ngokwabo ukuthi bahlukunyezwa kanjani, nangokuthi liphakamise izindlela zokubanxephezela.

## **Ukufaka izicelo zokunxeshezela**

Noma ngubani ocabanga ukuthi wathola ukulimala ngenxa yokucekela phansi kwamalungelo obuntu, angafaka isicelo eKomitini ukuze anxeshezela. IKomiti lizosibheka noma yisiphi isicelo, futhi lingasebenzisa noma yimaphi amandla elinikezwe wona, njengoba ebaliwe ngenhla.

Kunoma yikuphi okulethwe eKomitini, futhi okuphathelene nalokho okutholakele ukuthi ingabe isenzo, ukungenzi okwakufanele kwenziwe noma icala, okwenziwe kungukungahloniphi amalungelo abantu, iKomiti lizodlulisela indaba kwiKomiti eliphathelene nokungahlonishwa kwamalungelo obuntu.

Uma emva kokuthi iKomiti selicubungule isicelo elisithole kumfaki-sicelo kanye nobufakazi elibamukelile noma elibutholile, lithola ukuthi umfaki-sicelo uhlukeyiwe, lizolandela izindlela ezibekiwe, lenze iziphakamiso ukuzama ukubuyisa isithunzi sobuntu nokuba yisakhamuzi salowo ohlukeyiwe.

Ngaphezu kokwenza iziphakamiso ezingabandakanya izindlela ezisheshayo zesikhashana, iKomiti lizobika kwiKhomishani ngalokho elikutholile. Lizokwenza futhi iziphakamiso ezizobhekwa nguPresidenti ngenhloso yokwenza iziphakamiso ePhalamende nokwenza imitheshwana yenqubo noma amareguleshini.



## IsiKhwama sikaPresidenti

Emva kokubonisana neMinista yezobulungiswa kanye neMinista yezeziMali, uPresidenti angasungula isiKhwama lapho kuzofakwa khona imali egcinwe yiPhalamende. Lemali ngabe igcinelwe ukuthi ifakwe esiKhwameni, kanti enye imali engafakwa esiKhwameni yileyo engumnikelo noma eyinzalo yemali eqhamuka kunoma yimuphi omunye umthombo.

Imali yokukhokhela labo abahlukunyezwa iyothathwa kuso lesi sikhwama ngokulandela amareguleshini abekwe nguPresidenti.

# **Labo abahlukunyezwa** ngenxa yokucekelwa phansi kwamalungelo obuntu

Lapho libhekene nalabo abahlukunyezwa, iKhomishani liyolandela imigomo elandelayo:

- Liyophatha ngesihawu labo abahlukunyezwa futhi lihloniphe nesithunzi sabo;
- IKhomishani liyophatha labo abahlukunyezwa ngendlela efanayo, futhi ngeke babandlululwe nganoma yiyiphi indlela. Angeke babandlululwe ngokobuhlanga, ngokwebala, ngokobulili, ngokuthi umuntu uthanda ukuzibandakanya nabuphi ubulili (sexual orientation), ngokobudala, ngokolimi, ngokwenkolo, ngokobuzwe, ngokwepolitiki noma ngokwemibono, ngokwenkolelo yamasiko, noma ukuwagcina, ngokwempahla (property), ngokokuzalwa noma ngokwezinga umndeni okulo, noma ngokokukhubazeka;
- IKhomishani liyosebenzisa izindlela ezisheshayo ukubhekana nezicelo ezifakwe ngabahlukunyezwa, lezo zindlela angeke kube ngezikhethayo, angeke zibize, futhi kuyoba yizindlela ezitholakala kalula;
- IKhomishani liyokwazisa labo abahlukumezeka, kumaphephandaba nangezinye izindlela, ngamalungelo abanawo lapho befuna izinxephezelo kwiKhomishani. Olunye ulwazi abayoluthola yilolo olumayelana neqhaza elibanjwe yiKhomishani, inani lemisebenzi

yeKhomishani, ilungelo labahlukunyezwa lokuthi imibono yabo ibekwe futhi icutshungulwe ngokulandela izinyathelo zophenyo ezifanele;

- Ikhomishani liyothatha izinyathelo ezifanele ukugwema ukuthi labo abahlukunyezwa bangalokhu bexineka (inconvenience). Uma kungenzeka, kuyothathwa izinyathelo ukubavikela ukuthi bangaphazanyiswa (privacy) ukuqiniseka ukuthi baphephile, bona nemindeni yabo. Ofakazi abafakazela labo abahlukunyezwa, nabo kuyoqinisekwa ukuthi baphephile;
- Ikhomishani liyothatha izinyathelo ezifanele ukuvumela labo abahlukunyezwa ukuthi bakhulume ngolimi abaluthandayo;
- Ikhomishani liyosebenzisa izindlela ezingabekiwe phansi (informal mechanisms) zokuxazulula izingxabano ukuze kube khona ukubuyisana futhi labo abahlukunyezwa banxeshezwe. Lezi zindlela kungaba ukuthi kube khona umuntu wesithathu ozoxazulula (mediation), ukulamula, kanye nanoma yiyiphi indlela, noma izenzo ezibekwe ngumthetho wenjwayelo.

# Izakhiwo zokwesekela iKhomishani

Nakuba iKhomishani lizobe lizimele, lizobe linabasebenzi abasebenza ngaso sonke isikhathi futhi abathathwe ezikhungweni ezahlukene, ngeke likwazi ukufeza izinjongo zalo ngaphandle kokuthi izinhlangano ezizinikele nazo zibambe iqhaza ngokugcwele.

Kunezinhlango eziningi ezingekho ngaphansi kukahulumeni (NGO) ezisiza umphakathi ngamasevisi. Ezinye zalezi zinhlangano ngezamalungelo obuntu, ezinye ngezokweseka ngokwengqondo noma umphakathi (psychological or social support service organisations), kanti ezinye ngezenkolo. Zonke lezi zinhlangano zingakwazi ukuthi zelekelele emsebenzini owenziwa yiKhomishani.

Iningi lalezi zinhlangano lalekelela emalungiselelweni adalela ukuthi kukhethwe iKhomishani. Uma uyilungu lenye yalezi zinhlangano, noma uma ungowenkolo ethile, siza ugqogquzele inhlangano yakho ukuthi ibambe iqhaza ekusizeni iKhomishani.

Umangabe wahlukunyezwa ngenxa yezepolitiki, futhi awazi kahle ukuthi ungathintana kanjani neKhomishani, noma awuwazi amalungelo akho, thintana nenhlangano engekho ngaphansi kukahulumeni (NGO) noma inhlangano yezenkolo eseduze nawe ucele usizo. Bazokwazi ukuthi bakuxhumanise neKhomishani.

Umangabe iKhomishani selikhethiwe, kuyobe sekwaziswa emsakazweni, kuthelivishini, nakumaphephandaba. Lokhu kuzokusiza ukuthi wazi ngomsebenzi owenziwa yiKhomishani futhi ukwazi ukuthi uthintane ngqo nalo uma ufisa kanjalo.

Ngaphezu kwakho konke, nokunye kuliqiniso. INingizimu Afrika idinga ukuthi iguqulwe futhi idinga ukuthi idemokrasi kanye nokuthuthukiswa kwamalungelo obuntu kuqinise. IKhomishani yamaQiniso kanye nokuBuyisana ingalekelela ekutheni lokhu kwenzeke, kodwa umsebenzi wayo ungaba ngcono, wenzeke nakwezinye izigaba, futhi ungaqina ngokulekelelwa yini.

# Imibuzo

## nezimpendulo

### 1. Kungani kufanele kube neKhomishani lamaQiniso nokuBuyisana?

UMthetho-sisekelo wesiKhashana uthi, ukuze kube khona ukubuyisana nokwakha kabusha, ukuxolelwa kuyonikezwa ngenxa yamacala ahambisana nezinhloso zezepolitiki enziwe ngesikhathi sokungqubuzana esedlule. Kunabantu, imindeni, kanye nemiphakathi eminingi eyahlukumezeka kakhulu ngenxa yokucekelwa phansi kwamalungelo obuntu. Labo bantu kufanele bawazi amaqiniso, kanti lokhu kuyingxenywe yohlelo lokwelapha amanxeba. Ukuthola amaqiniso yikona okuzokwakha isimo lapho kuyoba khona ukubuyisana nokuthula.

### 2. Ingabe iKhomishani lizowuqala nini umsebenzi walo?

Usubekiwe uMthetho ophethe iKhomishani, futhi seluqalile uhlelo oluzokwenza ukuthi iKhomishani likhethwe nguPresidenti. Kuyisifiso ukuthi iKhomishani libe seliqalile ungakapheli unyaka ka-1995.

### **3. Ingabe iKhomishani lizokwenzani?**

Lizokwenza ukuthi abantu abacekele phansi amalungelo obuntu abanye abantu, bafake izicelo zokuxolelwa. Ukuze lokhu kwenzeke kufanele bakhiphe konke ngamacala abawenza. IKhomishani lizokwenza ukuthi labo abahlukunyezwa kanye nezihlobo zabo bakwazi ukuthi "baveze indaba yabo", futhi lizophenya ngokucekelwa phansi kwamalungelo obuntu okulethwa kulona. Lizolungisa ukuthi labo abahlukunyezwa besulwe izinyembezi. Lizolungisela futhi ukuthi abantu banxeshezwe. IKhomishani lizobhala phansi amaqiniso wonke, bese lishicilela (publish) kanye neziphakamiso lapho liqeda ukwenza umsebenzi walo.

### **4. Ingabe iKhomishani lizosebenza isikhathi esingakanani futhi lizobe likuphi?**

IKhomishani likhethwe ukuthi lisebenze isikhathi esingangezinyanga ezingu-18, futhi uma kunesidingo lingafaka isicelo sokuthi liqhubeke ezinye izinyanga eziyisithupha. Ngaphezu kwalokho, iKhomishani linikezwe ezinye izinyanga ezintathu ukuze liqedele umbiko walo. UPresidenti nguyena ozonquma ukuthi iKhomishani lizoba kuphi. Kodwa-ke kungenzeka ukuthi umsebenzi weKhomishani usatshalaliswe, kanti iKhomishani qobo lwalo kanye namanye amakomiti azohamba yonke iNingizimu Afrika.

**5. Ngingaluthola kanjani olunye ulwazi olumayelana neKhomishani?**

IKhomishani lizothi lingaqala umsebenzi walo, bese lizazisa emsakazweni, kuthelivishini, nakumaphephandaba. Liyobe lizazisa ukuthi ingabe likuphi, futhi licele ukuthi abantu baliphendule.

**6. Ngingalekelela kanjani emsebenzini owenziwa yiKhomishani?**

Ungalekelela ngokuthi wazise abantu abaningi ngeKhomishani. Nikeza abantu lephamflethi.

Ukungezelela kulokho, uma uyilungu lenkolo ethile, noma lenhlangano engaphethwe nguhulumeni, zigqugquzele izinhlangano ukuthi zibambe iqhaza. Uma wazi ngomuntu owahlukunyezwa ngenxa yezepolitiki, mazise ngaleKhomishani.



# Izinhlolo zeKhomishani

- Ukubuyisela amalungelo okuba yisakhamuzi nawobuntu kulabo abahlukunyezwa;
- Ukubuyisa isimo somthetho wokulunga (moral order);
- Ukufuna amaqiniso, abhalwe phansi, bese aziswa emphakathini;
- Ukusungula usiko lwamalungelo obuntu kanye nokuhlonipha inqubo yomthetho (rule of law);
- Ukuvimbela ukuthi ihlazo elenzeka esikhathini esedlule lingaphinde lenzeke.

**Esikhundleni sokuziphindiselela,  
kuzoba khona ukubuyisana;**

**Esikhundleni sokukhohlwa, kuzoba  
khona ulwazi nokwamukela  
amaqiniso;**

**Esikhundleni sokwenqaba  
ukwamukela, kuzoba khona  
ukwamukela nguhulumeni onozwelo;**

**Esikhundleni sokucekelwa phansi  
kwamalungelo obuntu kuzoba khona  
ukugcinwa kwemithetho yokulunga  
nokuhlonishwa kwenqubo yomthetho.**