

Uhlelo Lokusebenza Lukazwelonke lokulwa Nobuhlanga,
Ukucwasa Ngobuhlanga, Ukuzondwa kwabantu bokufika
kanye Nokungabekezelelani Okufanayo



REPUBLIC OF SOUTH AFRICA



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ISIPHETHO

Amagama asuka kuMongameli waseNingizimu Afrika

Uguquko olunokuthula kanye nokwaxoxiswa ngalo lwaseNingizimu Afrika ulusuka embusweni wobandlululo luya entandweni yeningi ekoteni yiminyaka eyikhulu eyedlule yaba yisibonelo esihle emhlabeni. Yahlanganisa abantu abamnyama kanye nabamhlophe ndawonye emuva kweminyaka eminingi yokungaboni ngasolinye ukwenza izwe elibumbene elisha okusiselwe emigomeni yokulingana kanye nesithunzi.

Enkulumeni yokugcotshwa kwakhe kuMeyi ka-1994, uMongameli uMandela uyasicela namunye, njengezihlahla zezakharanda zasePitoli kanye nezihlahla zemimosa ehlanzeni, lapho zihlangene nomhlabathi walelozwe elihle futhi ukhuluma ngethunga lwenkosazane elinokuthula kulo kanye nomahlaba.

Njengoba izwe lethu lenza iminyaka engama-25 yentando yeningi kanye nenkululeko, siyabizwa, Kodwake, ukuthi sivume ukuthi lo mbono ucekela phansi ukuvela njalo kobuhlanga kanye nokubandlulula ngobuhlanga. ukucwasa ngobuhlanga

Asisodwa kulokhu, ngoba ubuhlanga kanye ukuzondwa kwabantu bokufika, okungaphansi kobuzwe, kuyanyuka. Kodwa ke, lapho lezi zinkinga ziziveza emphakathini wethu, sinesibopho sokususwa kwaleyo ndlela yokuziphatha kubulala incwadi kanye nomoya Wesendlalelo soMthethosisekelo wethu esithi:

“Thina, abantu baseNingizimu Afrika,

Siyazamukela izenzo ezingalungile zezikhathi esadlula;

Siphakamisa labo abahluphekela ubulungiswa nenkululeko emhlabeni wethu;

Sihlonipha labo abasebenzele ukwakha nokuthuthukiswa izwe lethu; futhi

Sikholelwa ukuthi iNingizimu Afrika ingeyabo bonke abahla kuyo; sibumbene nakuba singafani.”

Ubuhlanga kanye nokucwasa ngobuhlanga kuyaqhubeka nokuzwakala emphakathini wethu kanye nezinye izindlela zokubandlulula, ubandlululo langokobulili, ukuzondwa kwabantu bokufika, ukuzonda abathandana nobulili obubodwa, amacala enzondo kanye nenkulumo enenzondo.

Isikhathi sifikile ukuthi sigqashule onke amaketango obandlululo kanye nokucwasa ukuze sigcine isethembiso sokwakha izwe elibumbene, elingacwasi ngobuhlanga, elingacwasi ngobulili futhi eliya phambili lapho bonke abahlala kulo kungafanele nje balingane kuphela, kodwa bezizwe belingene njalo nje.

Ukuzibophezela kweNingizimu Afrika ukuthi kuqedwe ukucwasa kanye nokungabekezelelani ngezindlela ezahlukeni kwasuselwa Esimemezelweni kanye Nohlelo Lokwenza olwathathwa Inkomfa Kazwelonke ye-United Nations okungahambisani Nobuhlanga ka-2001, esicela ukuthi amazwe ukuthi “asungule futhi aqalise ngokushesha inqubomgomo kanye nezinhlelo zokusebenza kukazwelonke ukuqeda ubuhlanga, ukucwasa ngokobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okuhambisanayo, okuhlanganisa ngokobulili.”

Ekuphenduleni lokhu, iKhabhinethi yathatha **Uhlelo Lokusebenza Lukazwelonke lokulwa Nobuhlanga, Ukucwasa Ngobuhlanga, Ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo.**

Uhlelo lususelwa ekuqinisekiseni kweNingizimu Afrika ngokuhlanganyela ukuthi, njengoba ukucwasa okungalungile kanye nokungalingani kwenziwa ngabantu, sinawo amandla okuqeda lokhu ezweni lethu.

Uhlelo lwenziwe ngohlelo lokuxoxisana okunzulu okuhlanganisa uhulumeni, Yizikhungo Zesahluko Sesishiyagalolunye kanye nomphakathi womthetho, futhi ususelwa emigomeni Eyejwayelekile jikelele, ukuphilisana kanye nokungahlukani kwamalungelo abantu, ukubamba iqhaza kanye nokuhlanganyela, ukubona okuqhubekayo, umthwalo, ukulingana kanye nokungacwaswa. Izikhungo Zesahluko SesishiyagalolunyeUmphakathi womthethokwamalungelo abantu

Uhlelo lubophezela yonke imikhakha yomphakathi wethu ekukhuthazeni kanye nasekuvikeleni amalungelo abantu, kanye nasekuqwashiseni ngezindaba zokungacwaswa ngokobuhlanga, ezokulingana kanye nokungacwasi. Likhuthaza ukusebenzisana phakathi kweminyango kahulumeni kanye Nezikhungo Zesahluko Sesishagalolunye ekuqalisweni ukufundisa ngokungacwasi ngokwebala kanye nokungacwasi. ukukhuthaza

Ezinye izinyathelo zihlanganisa ukuhlanganiswa kolwazi maqondana ngokucwasa ngobuhlanga kanye nokucwasa ukuze sizokwazi ukuthi siqede lezi zinkinga futhi sikhuphule ukungenelela okunjengokushushiswa kwabanamacala kanye nokwesekwa ngokwengenqondo kwezisulu.

Uhlelo Lukazwelonke Lokusebenza luphinde lwenze imihlinzeko yokubonwa komthetho odinga ukuchibiyelwa noma uthathwe ngenhloso yokwenza ncono ukuvikelwa kwezisulu, ukwakhiwa komphakathi olinganayo, kanye nokuqinisa ingalo yomthetho kanye ngentando yeningi.

Lolu hlelo lugqugquzela ukuzibophezela kwazo zonke izakhamizi zaseNingizimu Afrika emigomeni kanye nokuziphatha okuzonqamula ikamuva lethu elibuhlungu futhi elilimazayo futhi kuzogcina ukulunga kwethu kuqeqeshiwe endleleni yokushintsha kanye nokukhula.

Lona ngumzamo okumele uba nempande kuzo zonke izinhliziyi kanye nawo wonke amakhaya, lapho amagugu ethu kumele agqame emagumbini okufundela, ezindaweni zokusebenza, emigqeni ezimakethe, emaresturenti kanye nasezitediyamu.

Asenze iminyaka engama-25 ezayo yenkululeko ibe yisikhathi lapho kungeke kube khona ukuhlukana, ukucwasa kanye nokungabekezelelani kwangaphambilini.

ISENDLALEO

Inkonfa kaZwelonke yokulwa Nobuhlanganga, Ukucwasa ngobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okufanayo, njengokuba kuvezwe Kusimemezelo SaseThekwini kanye Nohlelo Lokwenza luthi:

“Siyazi ukuthi ubuhlanga, ukucwasa ngokobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo okusukela ebuhlangeni, ibala, ubuzwe kanye nokuthi izisulu zingaba nezinhlobo eziningi noma ezinkulu zokuhlukumezeka ngenxa yokucwaswa okungaba yingenxa yobulili, ulimi, inkolo, umbono wezepolitiki noma eminye imibono, izwe, impahla, ukuzalwa kanye nesinye isimoukucwasa ngobuhlanga”

Isimemezelo kanye Nohlelo Lokusebenza oluthathwe Yinkomfa Yomhlaba wonke ye-United Nations sicela ukuthi “amazwe ukuthi asungule futhi aqalise ngokushesha inqubomgomo kanye nezinhlelo zokusebenza kukazwelonke ukuqeda ubuhlanga, ukucwasa ngokobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okuhambisanayo, okuhlanganisa ngokobulili.”

Ngokwazi umlando waseNingizimu Afrika wokuqhwagwa kwezwe abokufika kanye nobandlululo, ukubanjwa kweNkomfa yaseThekwini kwakubaluleke kakhulu. Ngonyaka ka-1994, izwe laphuma engcindezelweni yeminyaka engaphezu kwamakhulu amathathu kanye nohhafu wekhulu leminyaka, okwakwenziwa yidlanzana labamhlophe ababephetha, ohulumeni bezokughwaga izwe kanye nobandlululo. Ngalesi sikhathi eside kangaka, ama-Afrika okuyiwona amaningi kanye nedlanzana elingekho mhlophe ngokwebala babephathwa njengabagawuli bezinkuni kanye nabakhi bamanzi. Babehlukanisiwe ngokwezepolitiki, bakhishwa kwezomnotho futhi becindezelwe ngokwamasiko abo.

Amanxeba okuqhwagwa kwezwe kanye nobandlululo asabonakala ebusweni bezwe laseNingizimu Afrika namhlanje. Ubumpofu kanye nokungathuthuki kungokwebala – kuthinta kakhulu abantu abamnyama – lapho ukuba nomnotho kanye nempilo encono kuyinto yabantu abamhlophe.

Ukuqhwagwa kwezwe kanye nobandlululo kuqhubeke nokuba kubi kakhulu emasikweni akhona abukela phansi isithunzi kanye nempilo yabantu besifazane emphakathini. Izinto ezicindezela abantu besifazane ezenziwe ngamadoda ezenziwe zaba yisiko emiphakathini yama-Afrika zazisetshenziswa nguhulumeni wendlanzana owedlule. Kuyiqiniso elingephikwe ukuthi, abesifazane bebeba sezikhundleni ezibuthaka, uma ubaqhathanisa nabesilisa.

Iminyaka eminingi yenqubomgomo ecwasa ngobuhlanga kanye nehlukanisayo itshale imbewu yokuzondwa kwabantu bokufika, ikakhulukazi abasuka emazweni ase-Afrika, lokhu okwenza kuphela ubuhlobo kuma-Afrika eNingizimu Afrika kanye nalaba abasuka kwezinye Izingxenye zezwekazi. Yingakho ama-Afrika eyizisulu ezinkulu zokuzondwa kwabantu bokufika eNingizimu Afrika entsha. Loluhlelo Lukazwelonke Lokusebenza liyimpendulo emyalelweni owenziwa Enkomfeni YaseThekwini futhi

I-NAP akuyona ekahulumeni kuphela – eyezwe. Imihlahlandela ye-UN ithi, uhlelo lukazwelonke lokusebenza lokulwa nokucwaswa ngokobuhlanga luyindlela yokulandela imigomo kazwelonke. Ngalokhu, kumele luthathwe njengesenzo sangempela sikaZwelonke, okuhlanganisa onke amagatsha kahulumeni kanye nomphakathi. UMbuso udlala indima esemqoka ukusungula, ukuqalisa kanye nokwenza njengokuba kunqunyiwe uhlelo lukazwelonke lokusebenza lokulwa nokucwaswa ngokwebala. Ngesikhathi esisodwa, ukwenza umehluko wangempela, uhlelo kumele

libe ngelomphakathi wonke. Ekufuneni ukuthola izinjongozabo, uMbuso kumele usungule ubudlelwano phakathi kwabo bonke ababambi beqhaza¹ ukucwasa ngobuhlanga

Okuqukethwe yi-NAP okukazwelonke futhi kusebenza kuwo wonke amagatsha kanye nezingxenye zikaHulumeni, ephalamene kanye namajaji kuwo wonke amazinga.

I-NAP yenziwe ngohlelo lokuxoxisana okunzulu okuhlanganisa uhulumeni, Yizikhungo Zesahluko Sesishiyagololunye kanye nomphakathi womthetho, futhi ususelwa emigomeni Eyejwayelekile jikelele, ukuphilisana kanye nokungahlukani kwamalungelo abantu, ukubamba iqhaza kanye nokuhlanganyela, ukubona okuqhubekayo, umthwalo, ukulingana kanye nokungacwaswa.

- Yonke indawo: I-NAP kumele yazi ukuthi amalungelo abantu ayisisekelo athola ukusekelwa kuyo yonke indawo yimithetho yendabuko yomhlaba kuyo yonke imingcele kanye nempucuzeko. Kumele ngumsebenzi wombuso owejwayelekile ukuhlonipha, ukuvikelwa, ukukhuthaza kanye nokugcina amalungelo abantu kanye nenkululeko eyisisekelo, noma ngabe isomo sepolitiki, umnotho noma isiko sithini.

Ukuncika kanye nokungahlukaniseki: I-NAP kumele inake zonke izinhlobo zamalungelo ngokulingana, okuhlanganisa amalungelo omthetho kanye nawezepolitiki, kanye namalungelo ezomnotho, ezomphakathi kanye nawesiko, ikakhulukazi yazi ukuthi ukunganaki athile kwenza ukuthi amanye engatholakali.

- Ukubamba iqhaza kanye nokuhlangana: I-NAP kumele iqinisekise ukubamba iqhaza okugcwele, okunomthelela futhi okulinganayo. Kumele kwenze ngcono izimpilo zabantu kanye namaqembu abhekana noma abhekane nokucwaswa ngokobuhlanga ukuthi babone izidingo zabo zamalungelo abantu kanye nokuqinisekisa ukuthi kubhekanwe nazo. ukucwasa ngobuhlanga
- Ukubona okuqhubekayo: I-NAP kumele yenze inqubomgomo eqhubekayo, eqondile, egcinekeyo ngokomthetho ukuqinisekisa amalungelo abantu kanye namaqembu abhekene nokucwaswa ngokwebala noma ezinye izinhlobo zokucwaswa.
- Isibopho: Ukuze ibe nomthelela, i-NAP iidinga ukwnza uhlelo lwesibopho olususelwa emigomeni ethile, eqinisekisekayo. Kumele yenze izindlela zokuthi izikhungo eziphethe ukuqaliswa kwayo ziphendule kulawo maqembu kanye nabantu amalungelo abo kuhloswe ukuthi akhuthazwe futhi avikelwe.
- Ukulingana kanye nokungacwasi: Umgomo wokungacwasi ungumgogodla womthetho wamalungelo abantu futhi umgomo obandakanyiwe kuzo zonke izivumelwano zamazwe zamalungelo abantu. I-NAP kumele iqondiswe ngumgomo yokukwazi ukuthokozela amalungelo ngokulingana njengengxenye eyinhlanganisela yokuvinjelwa kokucwaswa ngokobuhlanga. Kumele uzame ukuqinisekisa ukuthi amalungelo abantu asetshenziswa ngokukwazi ukuthola ngokulingana, amathuba kanye nemiphumela, ngokweqiniso kanye nangokomthetho, kubo bonke abantu. Kumele unake kakhulu laba ababuthaka ekucwasweni ngokobuhlanga. Ukungacwaswa kanye nokulingana kubalulekile ekwenzeni kanye nasekuthokozeleni amalungelo abantu. Ilungelo lokulingana kanye nokungacwaswa lidinga ukuthi uMbuso uqinisekise ukungacwaswa ekwenzeni ilungelo labantu ngalinye.

¹ Developing National Action Plans against Racial Discrimination, A Practical Guide, UNHR, 2014, p. 10

- Ukusebenzisana.

I-NAP isuselwe enkolweni yokuhlanganyela yezakhamuzi zaseNingizimu Afrika ukuthi, njengokuba ukucwaswa ngokungenabulungiswa kanye nokungalingani kwenziwe abantu; kungashintshwa futhi kwenziwe ukuthi kuphela nya ezweni lethu.

IZINCAZELO

Inothi echazayo: Inkomfa Kazwelonke elwisana Nobuhlanga, Ukucwasa ngokobuhlanga, ukuzondwa kwabantu bokufika, eyahlangana eThekwini kusukela zingama-31 ku-Agasti kuya kumhla ziye-8 kuSeptemba ka-2001, yamukele Isivumelwano Somhlaba wonke Sokuqeda Zonke Izinhlobo Zokucwasa ("ICERD") njengesikhali esiphezulu somhlaba wonke sokuqeda ubuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo.

Ngalokhoi-NAP isebenzisa izincazelo eziku-ICERD kanye, lapho kufanele, nezinye izivumelwano zomhlaba wonke. Lapho umthetho wethu wezwe noma Inkantolo Ephakeme inenezele izincazelo ezithile, zizocaciswa ngokufanele.

Ukucwasa: Kusho noma yisiphi isenzo noma ukweqa, okuhlanganisa inqubomgomo, umthetho, ukuphatha, ukwenza, isimo lapho ngendlela eqondile noma engaqondile --

(a) kubeka imithwalo, izibopho noma isimo esingalungile; noma

(b) kugodla inzuzo, amathuba noma isimo esilungile kunoma yimuphi umuntu, ngesizathu sokuvimbela esisodwa noma ngaphezulu.

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Ukucwasa ngokobulili: Kusho noma yikuphi ukuhlukaniswa, ukukhishwa noma ukuvinjelwa okwenziwe ngezizathu zobulili okunomthelela noma inhloso yokwehlisa amandla noma ukungaboni, ukuthokoza noma ukwenza kwabesifazane, noma ngabe sithini isimo sabo somshado, ngezizathu zokulingana kwabesilisa kanye nabesifazane, kwamalungelo abantu kanye nenkululeko eyisisekelo emkhakheni wezepolitiki, wezezimali, womphakathi, Wesiko, womthetho noma eminye imikhakha.³

Amacala enzondo: Icala lenzondo liyicala ngaphansi kwanoma yimuphi umthetho, lapho icala lenziwe ngenxa yokubandlulula noma ukungabekezeleli izisulu okukhulunywa ngazo ngenxa yento eyodwa noma ngaphezulu noma izinto eziqondwayo zesisulu noma ilunga lomdeni wakhe noma ukuzibandakanya kwesisulu noma ukweseka kwakhe iqembu labantu abanezinto ezilandelayo:

(a) Iminyaka;

(b) ubunkawu;

(c) ukuzalwa;

(d) ibala;

(e) isiko;

² Promotion of Equality and Prevention of Unfair Discrimination Act, ka-2000 (uMthetho wesi-4 ka-2000)

³ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

- (f) ukukhubazeka;
- (g) ubuhlanga noma umphakathi asuka kuwo;
- (h) ubulili noma ubulili abukhethile;
- (i) isimo sakhe se-HIV;
- (j) ulimi;
- (k) ubuzwe, isimo sokufuduka noma ukubaleka;
- (l) ukusebenza noma ukuhweba;
- (m) ukuzibandakanya kwezepoliyiki;
- (n) rubuhlanga;
- (o) inkolo;
- (p) ubulili, okuhlanganisa nobulili obungejwayelekile; noma
- (q) Ubulili umuntu azifanisa noma afaniswa nabo .⁴

Inkulumo enenzondo: Ukushicilela, ukusakaze inkoloze, ukumela noma ukuxhumana ngamabomu kumuntu oyedwa noma abaningi ngendlela engakhiwa ukuthi ibonise injongo ecacile yokuthi—

- (i) ilimaze noma ikhuthaze ukulimaza, noma
- (ii) ikhuthaze inzondo ngenxa yento eyodwa noma ngaphezulu yezinto ezilandelayo:
 - (aa) Iminyaka;
 - (bb) ubunkawu;
 - (cc) ukuzalwa;
 - (dd) ibala;
 - (ee) isiko;
 - (ff) ukukhubazeka;
 - (gg) ubuhlanga noma umphakathi asuka kuwo;
 - (hh) ubulili noma ubulili abukhethile;
 - (ii) isimo sakhe se-HIV;
 - (jj) ulimi;
 - (kk) ubuzwe, isimo sokufuduka noma ukubaleka;
 - (ll) ubuhlanga;

⁴ *The Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018*

(mm) inkolo;

(nn) ubulili, okuhlanganisa nobulili obungejwayelekile; noma

(oo) ⁵ Ubulili umuntu azifanisa noma afaniswa nabo

Ukucwasa okungaqondanga ngqo: Imithetho, inqubomgomo noma ukuziphatha kungabonakala ngathi akuthathi macala futhi akucwasi kodwa noma kunjalo imiphumela ukucwasa..⁶

Izizathu ezibaliwe: Kusho izizathu ezibekiwe esigabeni sesi-9 soMthethosisekelo.

Izizathu ezivunyelwe--

(a) ubuhlanga, ubulili, ukukhulelwa, isimo sokushada, ubuhlanga noma indawo osuka kuyo, umbala, ubulili umuntu azifanisa noma afaniswa nabo, iminyaka, ukukhubazeka, inkolo, unembeza, inkolelo, isiko, ulimi kanye nokuzalwa; noma

(b) esinye izizathu lapho ukucwaswa kungenxa yalesi esinye izizathu--

(i) yenza noma kuqhubela phambili isimo esingalungile;

(ii) bukela phansi isithunzi somuntu; noma

(iii) sithinta ngendlela engalungile ukuthokozela okulinganayo komuntu amalungelo kanye nenkululeko yakhe ngendlela embi engaqhathaniseka nokucwasa ngesizathu esisendimeni (a).⁷

Ukucwasa ngobuhlanga: Noma yikuphi ukuhlukaniswa, ukukhishwa, ukuvinjelwa noma ukukhetha ngokobuhlanga, umbala, umuntu lapho asuka khona, noma ngokwezwe asuka kulo okunenhloso noma umthelela wokuqeda noma ukulimaza ukubonakala, ukuthokozela noma ukwenza, ngokulingana, amalungelo abantu knanye nenkululeko eyisisekelo emkhakheni wezepolitiki, wezezimali, womphakathi, wesiko noma omunye umkhakha wempilo yomphakathi

Ubuhlanga: Kusho ukubandlulula, ukubandlulula, noma ukuphikisana okuqondiswe kumuntu wobuhlanga obuhlukile ngezizathu zenkolelo ukuthi ubuhlanga bakho buncono.⁸

Ukuzondwa kwabantu bokufika: Kusho isimo sokuba nonya kubantu bokufika emphakathini othile.⁹

⁵ *The Prevention and Combating of Hate Crimes and Hate Speech Bill*, ka-2018

⁶ *City Council of Pretoria v Walker* 1998 (2) SA 363

⁷ *Promotion of Equality and Prevention of Unfair Discrimination Act*, ka-2000 (uMthetho wesi4 ka-2000)

⁸ Oxford Living Dictionary

IZIFINYEZO

CA	Isigungu soMthethosisekelo
CEDAW	Isivumelwano Sokuqeda Zonke Izinhlobo Zokucwaswa Kwabesifazane
CODESA	Isivumelwano seNingizimu Afrika Ekhlulekile
CRPD	Isivumelwano Samalungelo Abantu Abaphila Nokukhubazeka
DAC	uMnyango Wezamaciko kanye Namasiko
DDPA	Isimemezelo SaseThekwinisimemezelo saseThekweni kanye Nohlelo Lokusebenza
DOJCD	Umnyango Wezobulungiswa kanye Nokuthuthukiswa koMthethosisekelo
DPME	Umnyango Wokuhlela, Ukuqapha kanye Nokuhlola
EAP	Umphakathi Okhuthalele Ezomnotho
GBV	Udlame Olubhekiswe Kwabesifazane
ICERD	Ukucwasa ngobuhlangalsivumelwano Somhlaba Wonke Sokuqedwa Kwazo Zone Izinhlobo Zokucwaswa Ngokobuhlanga
LGBTI	Owesifazane othandana nomunye owesifazane, Indoda ethandana nenye indoda, Oshintshe ubulili kanye Ongeyena owesifazane futhi ongeyona owesilisa
NAP	Uhlelo Lukazwelonke Lokusebenza
NDP	Uhlelo Lokuthuthukiswa Kukazwelonke
PEPUDA	UMthetho Oqhubekisa Ukulingana Nokuvimbela Ubandlululo Olungalungile, ka-2000 (uMthetho wesi-4 ka-2000) UkukhuthazaUkuvimbela
SAHRC	Ikhomishana Yamalungelo Abantu eNingizimu Afrika
SARB	Ucwaningo Lokubuyisana eNingizimu Afrika
SEJA	Ubulungiswa Bezomnotho Womphakathi Babo Bonke Abantu
TRC	Ikhomishana Yamaqiniso kanye Nokubuyisana
WCAR	Inkomfa Yomhlaba wonke Yobuhlanga, Ukucwaswa Ngokobuhlanga, Ukuzondwa kwabantu bokufika kanye Nokungabekezelani Okunjalo. Ukucwasa ngobuhlangaUkuzonda abantu bokufika kanye nokungabekezelelani okufanayo
WPRPD	Iphepha Elimhlophe Lwamalungelo Abantu Abaphila Ngokukhubazeka.

⁹ UNESCO <http://www.unesco.org/new/en/social-and-human-sciences/themes/internationalmigration/glossary/xenophobia/>

“Akekho umuntu ozalwa ezonda omunye umuntu ngenxa yombala wesikhumba sakhe, noma umlando wakhe, noma inkolo. Abantu baya bayakufunda ukuzonda, futhi uma bengafunda ukuzonda, bengafundiswa ukuthanda, ngoba uthando luyimvelo enhliziyweni yomuntu kunokunye.”

Nelson Mandela

ISAPHLUKO SOKU-1: ISINGENISO KANYE NENHLOSO YE-NAP

1. INingizimu Afrika yayimenywe yi-*United Nations* ukuthi kubanjelwe kuyo Inkomfa Yomhlaba Wonke eliswana Nobuhlanga, UkucwasaNgokobuhlanga, Ukuzondwa Kwabantu Bakwamanye Amazwe kanye Nokungabekezelelani Okunjalo (“WCAR”), eyabanjwa ngo-2001. Isimemo sasilululwe ekwazisweni kobunzima obutholwa abantu baseNingizimu Afrika ngaphansi kohulumeni woBandlululo kanye nokushintsha kwezwe liya enkululekweni. I-WCAR yayihanjelwe abamele amazwe ayi-100. Inkomfa yathatha Isimemezelo saseThekwini kanye Nohlelo Lokusebenza (“i-DDPA”) esinxenxa amazwe ukuthi asungule futhi aqalise ngokukhulu ukushesha inqubomgomo yezwe kanye nezinhlelo zokusebenza zokulwa nobuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okufanayo, okuhlanganisa nezimpawu zokucwasa ngokobulili.¹⁰
2. Isimemezelo saseThekwini sazisa ukuthi -
 - Ukucwasa ngokobuhlanga kukhona kuyo yonke imiphakathi; ukucwasa ngobuhlanga
 - Alikho izwe elingenabo ubuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa
 - Onke amazwe anezinkinga zokuqeda ukucwasa ngokobuhlanga.

Isimemezelo saseThekwini senza iphuzu lokuthi ukudingida lezi zinto ngempumelelo kudingeka ukuthi oHulumeni kanye nabo bonke abantu abasebenzi ndawomye kumele basebenze ndawonye ukushintsha indlela yokucabanga, ukuqinisa umkhankaso ngesishayo sobuhlanga kanye nokucwasa ngobuhlanga, kanye nokusungula knokuqinisa amagatsha athile okulwa nakho. Isimemezelo SaseThekwini
3. Uhlelo Lokusebenza Lukazwelonke (“i-NAP”) luhlinzeka ngokokuthuthukisa inqubomgomo yomphakathi elwa nokucwasa ngokwebala futhi lusiza Amazwe ekutheni aqalise izibopho zamo zomhlaba zamalungelo abantu maqondana nokuqeda ubuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo. Luhlinzekela imiphumela ethile futhi luyindlela yokuhlanganisa ababambi beqhaza ndawonye ukuthi badingide izinselelo zokulwa ubuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo.¹¹
4. I-NAP ayiqondile ukungena esikhundleni semithetho ekhona kanye nenqubomgomo, kodwa ukuthi **ihambisane** nemithetho, inqubomgomo kanye nezinhlelo ezikhona okubhekana nokulingana kanye nokucwasa. I-NAP izohlinzeka izindlela zokubhala kanye nokuqapha

¹⁰ Par 66 of the DDPA

¹¹ Njengokuba kudingwa yi-DDPA, par 66

izigameko eziqhubekayo zobuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo okuhlanganisa ukuqaliswa kwethimba eliphendula ngokushesha, elibika ngqo kuhulumeni kanye nomphakathi wonke, eliSebenza njengabakali bezigameko, nezimo ezivumela ukuqhubeka kwabo kanye nokuhlinzeka amathuluzi okubhekana nazo.

5. Okunye, i-NAP iqonde ukusiza iNingizimu Afrika ukuthi ihlangabezane nesivumelwano sayo somhlaba kanye nezibopho zayo zesifunda isb. Isivumelwano Somhlaba Sokuqeda Zonke Izinhlobo Zokucwasa Ngokobuhlanga (ICERD), knanye nemibono esuka Enkomfeni ye-UN Yomhlaba yokulwa nobuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo.

Ukunaka amaqembu abalulekile

6. Ilungelo lamaqembu abuthaka futhi ahlukane ukuthi ahlale emphakathini ongenabo ubuhlanga, ongacwasi ngokobulili futhi ongacwasi ngokobuhlanga, ibala, ubulili, ubulili umuntu afaniswa noma kanye nobulili okhetha ukuba yibo, lapho uphuma khona, ngokwezwe osuka kulo, lapho kubhekwana nakho. Zinamaqembu abalulekile ukuthi i-NAP inikwe izinjongo zoMthethosisekelo zokulingana kanye nokungacwasi kanye nesidingo sokuthi avikelwe ebuhlangeni, ekucwasweni ngokobuhlanga, ukuzondwa kwabantu bakwamanye amazwe kanye nokungabekezelelani okufanayo.
7. I-DDPA ibone lamaqembu alandelayo njengabalulekile: Abantu bendabuko; base-Afrika kanye nabantu abasuka e-Afrika; abantu base-Asia kanye nabantu abasuka e-Asia; Abafuduki; Ababaleki kanye nabantu abacela ukukhoseliswa; izisulu zokuthengiswa kwabantu, abantu abashintshiwe ngaphakathi, imiphakathi yaseRoma/Gypsy/Sinti/Yabavakashi, imiphakathi yamaJew; imiphakathi yama-Muslim kanye nama-Arab; amadlanzana obuzwe, inkolo kanye nezilimu.¹²
8. I-NAP iphinde inake abantu, ngaphandle kokuba yizisulu zokucwaswa ngokobuhlanga, babhekana nezinye izinhlobo zokucwaswa, njengabantu:
 - Abampofu emakhaya kanye nasemadolobheni;
 - Abangabasebenzi baseplulazini kanye nabahlala epulazini;
 - Abantu abaphila ngaphansi kobubha obunzima kakhulu;
 - Abesifazane kanye namantombazane;
 - Izingane kanye nentsha;
 - Abantu abangenawo amazwe;
 - Abasebenzi basendlini;
 - Abantu abaphila ne-HIV/AIDS;
 - Abantu abaphila nokukhubazeka;
 - Abantu abadala;

¹² "Developing National Action Plans against Racial Discrimination, a practical guide", UNHR, Office of the High Commissioner (ka-2014) p81

- Abantu abancishwa inkululeko yabo;
 - Abesifazane abathandana nabanye abesifazane, abesilisa abathandana nabanye besilisa, abathandana nabesifazane kanye nabesilisa, abashintshe ubulili, abangenabo ubulili, kanye
 - Nabantu abathintekile engxabanweni yezikhala kanye nezinhlekelele zemvelo.
9. I-NAP isebenza kubo bonke abantu abasezweni abanamalungelo okulingana kanye nokungacwaswa. Umbuso kanye nabangasebenzeli umbuso banomsebenzi wezibopho ezivuka elungelweni lokulingana kanye nokungacwaswa. I-NAP ekugcineni inkolelo yokuthi amalungelo abantu ayafana, awahlukaniseki, ayahambisana, ancikelene futhi alekelanayo ifuna ukuqinisekisa ukuthokozela amalungelo okulinganayo, okuhlanganisa amalungelo omthetho, esiko, ezomnotho, ezipolitiki kanye nezomphakathi. I-NAP iphinde ikwazise ukuthi ilungelo lokulingana kanye nokungacwaswa amalungelo azimele futhi engaphulwa ngaphandle nokuhlotsshaniswa nokungatholi amanye amalungelo – okuyinto eveziwe kuMthethosisekelo wethu.
10. Imibuzo inomsebenzi wokukhuthaza kanye nokuvikela amalungelo abantu kanye nokuvikela ukuthi kungaphulwa amalungelo anjalo. Imibuso iphoqelekile ukuthi ingangeneleli ekuthokozeleni amalungelo kwabantu abayizisulu zokucwaswa ngokwebala. Imibuso futhi iphoqelelekile ukuthi ivimbele Ukuphulwa kwamalungelo abantu abayizisulu zobuhlanga kanye nokucwaswa ngokobuhlanga ngumbuso noma abangebona abasebenzi boMbuso. Imibuso kufanele ukuthi ithathe izindlela zokususa izithiyo ezizonqubuzana nokuthokozela amalungelo okungacwaswa ngenxa yobuhlanga, umbala, ukusuka, izwe lapho umutu asuka kulo. Lokhu kuhlanganisa nomsebenzi wokuvimbela ukucwaswa endaweni yangasese.
11. Ukuthuthukiswa kanye nokuqaliswa kwe-NAP kuhlanganisa uhlaka lobuchwepheshe lwenqubomigomo, izinhlelo, amasu kanye ngezindlela zemibuso zokulwa nobuhlanga, ukucwasana ngokobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okunjalo futhi kuhlanganisa ukulandela isibopho sombuso sokuvikela abantu noma amaqembu ebuhlangeni, ukucwasana ngokobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okunjalo.

Izinto i-NAP egxile kuzona kakhulu

12. I-NAP **igxile kakhulu** ekubhekaneni nodaba lokucwasana ngokobuhlanga kulelizwe. Ukwengeza ezindloleni ezikhona, i-NAP iphinde ihlose ukulwisana nokuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo kanye nokubhekana nalokhu okulandelayo:
- Ukukhuthaza isithunzi sabantu ngokukhuthaza kanye nokuvikela amalungelo abantu;
 - Ukwenza umkhankaso ophikisana nokucwasana ngokobuhlanga, ukulingana kanye nokungacwasani kwezikhulu zomphakathi, umphakathi womthetho kanye nomphakathi owejwayelekile, ukuhlanganisa ukweseka okusuka kubantu abehlukene kanye nokubhekana nesidingo sokuvikela, ukulwisana kanye nokubhekana nokucwasana ngokobuhlanga;

- Ukugqugquzela ukuthatha kwemininingwane maqondana nobuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo kanye nokuvumela ukuhlola okunzulu kwezidingo zokuthi balwe nakho ngokunomthelela; imininingwane ukucwasa ngobuhlanga
- Ukuqinisekisa ukuthi ukukhathazeka kwabantu kanye namaqembu ayizisulu zobuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelwa okunjalo kubhekanwe nakho ngendlela enomthelela;
- Ukwenyuka komthelela kanye ngezindlela ezihambisanayo zokulwa nobuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okunjalo okuhlanganisa izinsiza zezezimali kanye nezabantu;
- Ukuba yisizathu sesibophezelo sokuqeda ubuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okunjalo ngezinhlelo ezifanele ezihlolwe ukuthola izinhloso ezingatholakala;
- Ukuqinisa izinhlelo zabantu kanye namaqembu ayizisulu zobuhlanga, ukucwasa ngokobuhlanga, Ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okunjalo ngemfundo, ezempilo, ukuqashwa, izindlu, ukudla, izinsiza zomphakathi kanye nokuthola ubulungiswa lapho kunesidingo ngezindlela ezifanele;
- Ukusiza ukuthola umthetho okumele uchibiyelwe noma uthathwe ngenhloso yokwenza ncono ukuvikelwa kwezisulu, kanye
- Nokwakha umphakathi olinganayo kanye nokuqinisa ingalo yomthetho kanye ngentando yeningi.

ISAHLUKO SESI-2: UMLANDO

13. Izwe laseNingizimu Afrika liveza ibhaxa lomlando wabantu, ububona kanye nesiko, umele indabuko, ukuhlakazeka kanye nokuphinda kuhlanganwe kwabantu eminyakeni engamakhulu ayizinkulungwane edlule, ovezwa yimibango enodlame, ukuthathwa kwempahla kanye nokucindezelwa ngokwezepolitiki. Esikhundleni sokuthi kuhlanganwe ukuthi kwakhiwe phezu kwezisekelo zabantu abahlala khona abehlukene Engxenyeni yaseNingizimu ne-Afrika, abantu abasuka eYurophu basebenza kanzima ukwakha isimo lapho bezolwa bodwa ngoba befuna ukuqhwaga, ukuba nempahla eningi kanye nokunqoba ngokwezepolitiki abantu abaningi bendabuko emhlabeni wabo. Emuva kwezimpi eziningi, ukwehlulwa kwabantu base-Afrika ngonyaka we-1906, Impi kaBhambatha, yayimele umzamo wokugcina wabantu bendabuko wokulwisana nokubuswa abantu bokufika. .
14. Ukubuswa kwezwekazi lase-Afrika amanye amazwe asentshonalanga kwenza ukuthi imiphakathi yase-Afrika yahluleke, ama-*Khoi* kanye nama-*San*, ababeyizisulu zomkhankaso wokubulawa kwabantu abaningi, kanye nemiphakathi yama-Malay kanye neyamaNdiya eyayisetshenziswa ukwakha izisekelo zomnotho wombuso wabelungu. Isisekelo sobuchwepheshe obuphambili samandla okubuswa kwamazwe ase-Afrika ngamazwe asentshonalanga, okuyiwonze enze ukuthi abantu base-Afrika bahluleke, ethulwa endaweni yaseNingizimu Afrika ukusetshenziswa izindlela eziphezulu zokukhiqizwa komnotho kanye

nokuhweba okuncike kubantu bendabuko kanye nobasebenzi abayizigqila abasuka e-Asia. Yilo mlando onzima oqhubeka nokuchaza umphakathi waseNingizimu Afrika entsha.

15. Ngaphansi kokubuswa kwezwekazi lase-Afrika amanye amazwe asentshonalanga kanye nohulumeni woBandlululo, abantu abamnyama babecindezelwe, basuswa emhlabeni wabo kanye nezinye izinto futhi bathathelwa amalungelo abo ayisisekelo okuhlanganisa ilungelo labo lokuvota kanye nenkululeko yokunyakaza kanye nokuxhumana.¹³ Ukucwasa ngokwebala kwenza ukuthi abantu abamnyama bakhishwe kwezepolitiki, okwenza ukuthi bangathuthuki ngokwezomnotho futhi iningi labo lakhishwa ngaphandle ekumelweni nguhulumeni kanye nasemalungelweni amaningi kanye nakho konke okuhle okwakuthokozelwa abamhlophe kulelizwe. Umthetho oqondene nobuhlanga waphunyeleliswa ngeminya ye-1920 kanye neye-1930 yaqhuba ukucwasa ngokwebala kwaya phamnili. Ukucwasa ngobuhlanga Ukungena kukahulumeni woBandlululo ngonyaka ka-1948 kwakuyindlela 'yokukhuthaza ukuhlukaniswa' kwezinhlanga. Uhulumeni woBandlululo wawuthinta yonke ingxenye yimpilo yawo wonke umuntu – lapho ababevumeleke ukuthi bahlole khona, ubani abangamshada, ubani abangaxhumana naye, yiziphi izinsiza zikaHulumeni, uma zikhona, abangazithola. Singumphakathi wezilimi ezahlukeneyo, kodwa ngaphansi kukahulumeni wobandlululo ukucindezelwa kwezilimi zase-Afrika kwakuxhumene kakhulu nokubusa ngokobuhlanga.
16. Ukucwasa ngokobuhlanga kwenza ukuthi kube nemibhikisho kanye nomzabalazo eNingizimu Afrika ekupheleni kweminyaka ye-1940 futhi kakhulu, amuva konyaka ka-1976. Iningi labantu abacindezelwe eNingizimu Afrika lahlangelana ukuzabalaza, okuhlanganisa izinhlangano zepolitiki, izinhlangano babasebenzi, abezendabuko kanye nezingxenye ezahlukeneyo zomphakathi womthetho. Ukucwasa ngobuhlangaUmzabalazo wokulwisana nohulumeni wobandlululo waqiniswa emazweni aphesheya ngezenzo zokuba secaleni labazabalazayo. Kusukela phakathi neminyaka ye-1980 izwe elibuswa nguhulumeni wobandlululo labhekana nenkinga yokukhishwa inyumbazane ngokwezomnotho, okwenza umnotho wezwe wama, izikweletu ezinkulu zikaHulumeni kanye nokuzama okungaphumeleli kwamaphoyisa kanye nezobulungiswa ukumela uhulumeni wobandlululo. Ekupheleni kweminyaka ye-1980 izwe, umphakathi walo uhlukeneyo phakathi wenziwa nguhulumeni wobandlululo kanye nezomnotho ezingaphumeleli, lalingasaphatheki.
17. Ukufika kukahulumeni wentando yeningi ngonyaka ka-1994 kwasisa esimeni somphakathi esisha. Isivumelwano seNingizimu Afrika yeNtando yeningi (CODESA) senza ukuthi kube nokhetho lokuqala lwentando yeningi ngonyaka ka-1994 kanye nokuqaliswa koMthethosisekelo Wesikhashana.
18. Ukwenza uhlaka loMthethosisekelo weNingizimu Afrika ekhululekile yingxenye enzima kakhulu yokushintsha izwe lethu. UMthethosisekelo Wesikhashana wonyaka ka-1993 kanye noMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika wonyaka ka-1996 wandulela indlela entsha yomthethosisekelo lapho uMthethosisekelo waba umthetho ophezulu wezwe. Ukushintsha kusuka kuhulumeni wobandlululo kuya kuNingizimu Afrika Ekhululekile

¹³ Ama-Afrika, Amakhaladi kanye namaNdiya

ekuvumelaneni okusho ukuthi kwakungaqhudelwana futhi kwakungekho ophumelele noma ongaphumelelanga. Ngenxa yalokhu, abaholi noma ababesebenzela uhulumeni wobandlululo abashushiswanga ngamacala abawenza. Okunalokho kwasungulwa iKhomishana Yamaqiniso kanye Nokubuyisana ngenhloso yokuthi kubuyisanwe futhi kubhekwe ukuxolelwa kwalabo abaphula kakhulu amalungelo abantu ngeminyaka kahulumeni wobandlululo.

19. Ukhetho lwentando yabantu lokuqala olwenzeke mhla zingama-27 ku-Ephreli ka-1994 lwabona ukukhethwa kwabamele abangamakhulu amane esiGungwini sikaZwelonke kanye nangamashumi ayisishiyagalolunye Esigele. Ukuhlala okuhlangene kwalamagatsha kwenza isiGungu soMthethosisekelo esisha esithunywe ngaphansi kwesigaba sama-68(1) soMthethosisekelo Wesikhashana. I-CA kwakudingeka ukuthi ngaphansi koMthethosisekelo Wesikhashana yenze futhi ithathe umthethosisekelo wokugcina eminyakeni emibili emuva kokuhlala kwayo kokuqala esiGungwini sikaZwelonke. Umthethosisekelo wokugcina kwakumele ulandele Imigomo yoMthethosisekelo engamashumi amathathu nambili okwakuxoxiswane ngayo futhi kwavunyelwana ngayo yizingxenye ku-*Multiparty Negotiating Process* e-Kempton Park. Inkantolo yoMthethosisekelo entsha kwakufanele ukuthi iqinisekise ukuthi le migomo ilandeliwe, noma sha.
20. Ukwenza umthethosisekelo wokugcina Kwathatha ukusebenza kanzima. Ngaphandle kokumelwa okwenziwa yizinhlangano zezepolitiki, kwahanjiswa imibono eyizigidi ezimbili esuka emalungeni omphakathi kanye namaqembu omphakathi wezomthetho. Kwakuba nezinhlelo zokulalela abantu.
21. NgoSeptemba ka-1994, i-CA yenza iKomidi elaligxile Emigomeni yoMthethosisekelo engamashumi amathathu nane futhi yaqinisekisa ukuthi imibono efakwe kuMthethosisekelo wokugcina ihambisana nayo. Ikomidi 1 lalisizwa ngochwepheshe eKomidini Lobuchwepheshe. Ukubamba iqhaza komphakathi ovulelekile kwakuhamba kahle, ukuphikisana ngezepolitiki bekukhuphuka.¹⁴
22. Into ebalulekile ekwenziweni koMthethosisekelo wokugcina ukwenziwa kwe-*Independent Panel of Constitutional Experts* ngokwemigomo yesigaba sama-72 somthethosisekelo Wesikhashana, negunya lokuyala i-CA kanye nosihlalo bamaKomidi, kanye nokusombulula izimpikiswano.
23. Ngenyanga ka-Okthoba ka-1995, uhlaka lokuqala olusebenzayo loMthethosisekelo wokugcina lwakhiqizelwa ukuthi luthathwe yi-CA. Lwavunyelwa yi-CA futhi lwakhiqizwa mhla zingama-22 kuNovemba ka-1995. Amakhophi angaphezu kwezigidi ezinhlanu ohllaka aprintwa futhi kwanikezelwa ngalo ngendlela yamaphephandaba. Umphakathi wanikwa izinyanga ezintathu ukuthi ubeke imibono.

¹⁴ Ikomidi loku-1 lalinikwe umsebenzi wokuhlola isimo sombuso wentando yeningi. Ikomidi lesi-2 lalibheka magatsha kahulumeni. Ikomidi lesi-3 laligxila ebudlelwaneni bezigaba ezahlukene zikahulumeni. Ikomidi lesi-4 lalihlola isisekelo samalungelo, lapho Ikomidi lesi-5 lalibheka uhleli lwamajaji kanye nomthetho. Ikomidi lesi-6 lalibheka izinhlelo ezithile zikahulumeni futhi lahlukaniswa laba ngamakomidana ama-4: ukuphathwa komphakathi, izikhungo zezimali kanye namabhezini kahulumeni, ushintsho kanye nokuqapha, kanye nezinsiza zokuphepha.

24. Kwathi uma kufifa inyanga ka-Fuhuwari ka-1996, kwavela ukuthi kwakunezinto ezingama-65 ezingasombululiwe maqondana nohlaka kanye nokungavumelani ngokwezepolitiki ezintweni ezibalwe ezbalulekile. Uhlaka lwesine olusebenzayo lomthethosisekelo wokugcina lwashicilelwa ngoMashi.
25. Ababehola izingxoxo bahlangana e-Aniston e-*Western Cape* ngenyanga ka-Ephreli ka-1996 futhi uhlaka lwesihlanu olusebenzayo lomthethosisekelo lwakhiqizwa mhla ziye-15 ku-Ephreli. Izingxenywe zazineviki lokuthi zivumelane ngombhalo ngaphambi kosuku lomnqamulajuqu okumele kufakwe ku-CA. Lokhu kwenza ukuthi kube nokukhuluma kwezingxenywe zombili, Izingxenywe eziningi kanye nemihlangano yamakomidi amancane. Umhlangano wamahora angamashumi amabili nambili owaqala mhla ziye-18 ku-Ephreli, kwafinyelelwa esivumelwaneni sombhalo kanye nesendlalela kuMthethosisekelo.
26. Ikomidi loMthethosisekelo kwakumele libheke isicelo ezingama-298 zokuchibiyela uMthethosivivinywa, ezaletwa yizingxenywe ezahlukeneyo. Evikini elilodwa ngaphambi kosuku lomnqamulajuqu lokuthi uthathwe umthethosisekelo, sasingekho isivumelwano esigabeni sempahla, imfundo kanye nokusebenza. Mhla ziye-6 kanye nesi-7 kuMeyi, isiGungu soMthethosisekelo sahlanganela inkulumbo mpendulwano yokugcina maqondana noMthethosivivinywa noma izingxoxo zezingxenywe ezimbili ziqhubeka. Ebusuku bamhla ziye-7 kuMeyi, kwagcina kufinyelelwe kuso maqondana nezemfundo.
27. Mhla ziye-8 kuMeyi ngo-1996, uMthethosisekelo wokugcina wathathwa yi-CA. Ekugcineni, amavoti angama-421 arekhodwa evumela uMthethosisekelo. UMthethosivivinywa wadluliselwa eNkantolo yoMthethosisekelo ukuthi uqinisekise. Inkantolo yoMthethosisekelo yabamba izingxoxo zezinsuku eziye-9 ezaqala mhla zizi-1 kuJuli. Imibhalo yavezwa kanye nezimpikiswano zomlomo zenziwa amaqembu ezipolitiki amahlanu, bese amagatsha angasese angamashumi ayisishiyagalombili nane afaka ukuphikisana. Amagatsha angamashumi amabili nesikhombisa ayevunyelwe ukuthi azimele eNkantolo.
28. Mhla ziye-6 kuSeptemba iNkantolo yoMthethosisekelo yakhipha isinqumo esathola ukuthi Imigom yoMthethosisekelo yayingalandelwanga Kweminye yemihlinzeko. Eminye yemihlinzeko engaphumelelanga yayimaqondana: nelungelo labaqashi lokwenza amanani aphansi; ukuvikelwa okufanele kwamalungelo ayisisekelo; ukuncika kanye nokungakhethi koMvikeli Womphakathi kanye Nommeli Jikelele; Ikhomishana Yokusebenza Kukahulumeni; uhlaka kanye namandla kahulumeni wendawo kanye namandla kanye nemisebenzi yezifundazwe. Mhla ziye-11 ku-Octhoba i-CA yaphumelelisa umbhalo uchibiyelwe. Emuva kokuxoxisana izinsuku ezintathu okwaqala mhla ziye-18 kuNovemba, iNkantolo yoMthethosisekelo yaqinisekisa umbhalo ochibiyelwe mhla zizi-4 kuDisemba. Mhla ziye-10 kuisemba ka-1996, uMongameli uNelson Manela wasayina uMthethosisekelo wokuqala weNingizimu Afrika Yentando Yeningi e-Sharpville. UMthethosisekelo waqala ukusebenza mhla zizi-4 kuFebhuwari ka-1997.
29. Ngohlaka olusha lomthethosisekelo, inqubomgomo kanye nomthetho okhona uhulumeni wobandlululo wahlukaniswa futhi wenziwa isisekelo sezwe elinenkululeko futhi elihlanganisa bonke abantu elakhelwe phezu kokubaluleka kwesithunzi sabantu, amalungelo abantu,

inkululeko, ukungacwaswa ngokobuhlanga, ukungacwaswa ngokobulili kanye nengalo yomthetho. Ukuzuza lokhu, izwe elikhululekile kwakumele lisebenzele ekubuyisaneni kanye nokuhlangana komphakathi kanye nokuqinisekisa ukuthi izindlela zokubhekana umlando wobandlulo kanye nokulungisa ukungalingani kwangaphambilini.

30. enkulumeni kaMongameli uNelson Mandela esiGungwini soMthethosisekelo emcimbini wokwamukela uMthethosisekelo Omusha ngonyaka ka-1996 wachaza uhlobo lomphakathi iNingizimu Afrika ezama ukuwakha. Wathi uMthethosisekelo—

“uyindlela yethu yokubamba iqhaza enkululekweni kanye nasosikweni lomhlaba wamalungelo abantu; futhi uyisithembiso sethu kubantu ukuthi akukho okuzosisusa kulokhu. Wonke umuntu uzoqonda ukuthi sinesibophezelo kanye negunya okusuka eningini labantu bethu kulelizwe lethu ukuthi sishintshe iNingizimu Afrika ukusuka ezweni lohulumeni wobandlululo iya ezweni lohulumeni ongacwasi ngokobuhlanga, ukubhekana nombuzo wokungabi bikho kwemisebenzi kanye nabantu abangenawo amakhaya, ukwakha izakhiwo eminyakeni engaphezu kwamashumi ebezithokozelwa yindlanzana. Sifuna abesifazane kanye nabesilisa abazibophezele egunyeni lethu, kodwa abakwaziyo ukuthi bangaziboni ngaphansi kwezizwe zabo kuphela futhi bacabange ngokweNingizimu Afrika isiyonkekwamalungelo abantu”¹⁵

¹⁵ Address to the Constitutional Assembly on the occasion of the adoption of the New Constitution, May 1996

ISAHLUKO SESI-3 INKULULEKO– UKUPHELA KOKUCWASA?

31. Ukufika kwenkululeko eNingizimu Afrika ngonyaka ka-1994, isetshenziswa yisiko lamalungelo abantu njengomgogodla wokuvunyelwa koMthethosisekelo omusha kanye namalungelo abantu ahlukene, okuhlanganisa amalungelo omnotho womphakathi, kwabhalwa kuMqulu Wamalungelo Abantu futhi afakwe kuMthethosisekelo Wesikhashana kka-1993 futhi aphindwa kuMthethosisekelo wokugcina ka-1996. Umqulu Wamalungelo abantu usebenzi ngokwehla kanye nokunquma njengomgogodla wenkululeko eNingizimu Afrika. Ngalesi sizathu, uvikelwe ngokukhethalekile futhi imithethozivivinywa echibiyela uMthethozivivinywa idinga iningi labantu ababili kwabathathu esiGungwini sikaZwelonke kanye nevoti elesekekayo eliyisithupha lezifundazwe eziyisishiyagololunye ezimelwe eMkhandlwini kaZwelonke weziFundazwe. ukuvikela Namhlanje izinkantolo zethu ziqinisekisa ukunakekelwa kwamagugu aseNingizimu Afrika njengesithunzi sabantu, ukulingana kanye nokubusa koMthethosisekelo. Namhlanje sifuna ukufaka yonke into esiyeenza ngezifiso kanye nezinto ezibalulekile zoMthethosisekelo wethu – ngokusebenzisa uMqulu Wamalungelo Abantu njengophawu lokubonisa ukukala ukutholakala kwamalungelo abantu.
32. ukuthatha uMthethosisekelo ngonyaka ka-1996 kwakuyijika elikhulu emlandweni walelozwe. Usubizwe “ngesitifiketi sokuzalwa” seNingizimu Afrika entsha – izwe elehluke kakhulu kunaleli elalikhona ngaphambilini. Ilungelo eliqinisekise nguMthethosivivinywa lokulingana kanye nokuvikelwa okulinganayo kanye nokuzuza ngokomthetho kumele liqondwe ngokuphikisana nomlando walelozwe wokungalingani, ukucwasa ngokwebala kanye nokucwasa ngokobulili. Injongo yethu ukwakha izwe elikhululekile elingacwasi ngokobuhlanga, elingacwasi ngokobulili kanye nomphakathi okhululekile osukayo emlandweni wethu omubi. UMthethosisekelo awufikanga ngokushesha noma ngomlingo: ungumphumela wezingxoxo ezinde – kanye nomlando omude kanye noyinkinga ngaphambi kwalokho. Amaphuzu amaningi angukubona umzabalazo omude. Ngokwamazwi Ejaji Lenkantolo Enkulu u-Mahomed -

“Kwamanye amazwe uMthethosisekelo ugcina umthetho nje kuphela, ngokomthetho, umlando wesivumewano sezinto ezibalulekile kanye nezifiso ezibandakanyekayo ngokungeziwe okusuka emlandweni ozinzile futhi ongephukile ukuvulela indawo izidingo zakusasa. Umthethosisekelo waseNingizimu Afrika uhlukile: ugcina kuphela izinto zangaphambilini ezingameleka futhi ezimele ukuhlukana, kanye nokwala, kwaleyo ngxenye yangaphambilini ecwasa ngokwebala, eyindlovukayiphikiswa, engazi, futhi ecindezelayo kanye nokuhlonza okunamandla kanye nokuzibophezela emoyeni wenkululeko, sobunye, ukukhathala kanye nesifiso sokulingana okubhalwe kahle kuMthethosisekelo. Ukuqhathanisa phakathi kwengaphambili kanye nekusasa okufuna ukubophezela izwe kucacile futhi kuyamangalisa.”¹⁶

¹⁶ S v Makwanyane, 1995 (6) BCLR 665, para 262

33. Isigaba sokulingana (isigaba sesi-9) siveza amanye amalungelo Esahlukweni sesi-2 soMthethosisekelo, kuhlinzeka njengokuba kwenzela “ukuthokozela okugcwele futhi okulinganayo kwawo wonke amalungelo kanye nenkululeko.” Isigaba sesi-9 sivimbela ukucwasa okungalungelo ngezizathu ezimbalwa ezibaliwe.
34. **Ukucwasa** yindlela ethile yokwahlukanisa – kungukwahlunganisa ngezizathu ezingekho emthethweni. Lokhu kusho ukuthi ukucwasa ngezizathu ezibalwe esigabeni sesi-9(3) kuthathwa njengokucwasa okungalungile, kuze kube okuphambene nakho kuyaqinisekiswa. Kunokucabangela okuthi ukwahlukanisa ngenxa yesizathu ezibaliwe kuzobeka umthwalo kulabo abebeyizisulu zangaphambilini zokucwaswa noma kuzolimaza isithonzi salabo abathintekayo. Izizathu ezibaliwe ubuhlanga, umbala, ubuzwe, ubulili, ukukhulelwa, isimo somshado, iminyaka, isimo sokukhubazeka, inkolo, unembeza kanye nenkolelo, isiko kanye nolimi, ukuzakwa kanye nalapho usuka khona.
35. **Ukusebenzisana** kudlala indima ebaluleke kakhulu ekubhekaneni namaphethini angaphambilini okucwasa. Endleleni yakho elula, ukusebenzisana kuhlobanisa izinto ezahlukene ezidlala indima ekucwasweni abantu abakutholayo. Kusho “ukuqhubeka” kwezinto ezinjengobulili, ubuhlanga, ikilasi, ukwazi, inkolo, ubuzwe, ubulili umuntu azifanisa noma afaniswa nabo. Lolu “hlaka” lungasetshenziswa ukwazisa ukuthi ukungabikho kobulungiswa kanye nokungabibikho kokulingana kwenzeka kanjani esigabeni ezahlukene. Ukusebenzisana kuyaphikisana nokuthi ukucindezela okunjengokucwasa ngokobuhlanga, ukucwasa ngokobulili kanye ngokuzonda abathandana nabobulili obubodwa akuzimele. Kodwa lezi zinto ziyahlangana bese zikhipha uhlelo lwengcindezelo olukhipha “ukuhlangana” kwezinhlobo eziningi.¹⁷
36. Umqulu Wamalungelo abantu yiyona ngxenye yoMthethosisekelo enomphumela omkhulu empilweni kulelizwe. Amagama okuqala alesi sahluko athi: *Umqulu Wamalungelo abantu ungumgogodla wenkululeko eNingizimu Afrika. Ugcina amalungeloabo onke abantu ezweni lethu futhi uqinisekisa amagugu entando yeningi esithunzi sabantu, ukulingana kanye nenkululeko.*
37. INingizimu Afrika isiphasise imithetho eminingi ukwenza ukuthola izinjongo zoMthethosisekelo zokuthola ukulingana, isithunzi sabantu kanye nokwenza ncono amalungelo abantu kanye nenkululeko. Eminyakeni engama-20 yenkululeko imithetho eyi-1200 kanye nezichibiyelo eziqonde ukuqeda ubandlululo kanye nokuqedwa zonke izinhlobo zokucwasa zavunyelwa ePhalamende. Umthetho omusha kanye nochibiyelwe wasetshenziswa ukuqinisekisa ukulingana kanye nokuvimbela ukucwasa, Isibonelo, njengekwamalungelo abantu *Employment Equity Act*, ka-1998,¹⁸ i-*Ukukhuthaza of Access to Information Act*, ka-2000,¹⁹ i-*Ukukhuthaza of Administrative Justice Act*, ka-2000²⁰ and i-

¹⁷ Puleg Segalo, “Gender, social cohesion and everyday struggles in South Africa”, [Psychology in Society](#) On-line version ISSN 2309-8708, Psychol. Soc. n.49 (2015)

(http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1015-60462015000200006)

¹⁸ Act No. 55 of 1998

¹⁹ Act No. 2 of 2000

²⁰ Act No. 3 of 2000

*Ukukhuthaza of Equality and Ukuvimbela of Unfair Discrimination Act, ka-2000.*²¹ Ukwengeza, uhulumeni omusha waphasisa umthetho wokubuyisela, ilungelo lomhlaba, ukusiza ukuthola izindlu kanye nokuhlinzekwa kosizo emphakathini kulabo abaludingayo. Imithetho ibhekana ngokungalingani kanye nokucwaswa okungalungile okubonakayo esikhungweni zomphakathi kanye nezenzo kanye nendlela abantu baseNingizimu Afrika abacabanga ngayo kulokhu njengokuba kubukela phansi izifiso zoMthethosisekelo wathu wentando yeningi.

38. Kuzobe kunguzenza msulwa ukulindela ukuthi imithetho emihle kakhulu ukuthi iqede ukucindezeleka kweminyaka kanye nokucwasa ngokwebala okusemthethweni kanye nokucwasa. Ifa likahulumeni wobandlululo kanye nokubusa kwamazwe asentshonalanga lisekhona. Njengokuba uMongameli wangaphambilini uThabo Mbeki asho ngonyaka ka-1998 ukuthi-

“INingizimu Afrika yizwe lezizwe ezimbili. Enye yezizwe abelungu, abaphumelele kakhulu, noma ngabe bayibuphi ubulili noma bahlala kuphi. Byakwazi ukuthola umnotho othuthukile, izakhiwo zokuhlala, zemfundo, ezokuxhumana kanye nezinye. Lokhu kuvumela ukusho ukuthi, ngaphandle kokuphikelela kokucwaswa kwabesifazane, onke amalunga alelizwe anakho ukukwazi ukusebenzisa ilungelo labo lethuba elilinganayo, amathuba okuthuthukisa uMthethosisekelo wonyaka ka-1993 owabophezela izwe lethu.

Isizwe futhi esikhulu kakhulu saseNingizimu Afrika abantu abamnyama futhi abampofu, abantu abathinteki kakhulu ngabantu besifazane basezindaweni zasemakhaya, abantu abamnyama abasezindaweni ezisemakhaya kanye nabaphila nokukhubazeka. Lelizwe liphila ngaphansi kwezakhiwo zezomnotho, zokuhlala, zemfundo, zezokuxhumana kanye nezinye ezingathuthukisiwe nhlobo. Ayikho indlela yokwenza empilweni yangempela ilungelo lokuba namathuba alinganayo, ngalelo lungelo lilingana esizweni sabantu abamnyama kuphela ngendlela yokuthi asikwazi ukubona ngokulingana.

Iqiniso lokuba khona kwalezi zizwe ezimbili, ezivunyelwa ukuqhubela phambili ukungafani ngokobuhlanga, ubulili kanye nokuhlala okwaba khona esikhathini eside sokuphathwa ngamazwe asentshonalanga kanye nokuphatha kukahulumeni wobandlululo wabelungu, kugcizelela ukuthi, ngempela, asisona isizwe esisodwa, kodwa siyizizwe ezimbili.”

39. Kube nenkulu inqubekela phambili eminyakeni engamashumi amabili yenkululeko – kodwa kusenokuningi okumele kwenziwe. Kusekhona izinselelo eziningi okumele sibhekane nazo. Umphakathi waseNingizimu Afrika uhlukeni kabili. Izikole eziningi, amaphethelo edolobha kanye nezendawo zokukhonza zihlanganisa zonke izinhlobo zabantu, kodwa ezinye azikwenzi lokho. INingizimu Afrika ingeminye yemiphakathi enomnotho ongalingani emhlabeni wonke. Inzuzo ehlanganiswa nobuhlanga, ikilasi kanye nobulili akukashintshwa ngokugcwele. Ezinye

²¹ Act No. 4 of 2000

izibonelo, okukhulunywa ngazo lapha ngezansi, ziveza amanye amafa kahulumeni wobandlululo.

ISAPHLUKO SESI-4: YINI ESEHLUKANISA PHAKATHI? UKULWA NESISUSA SENKINGA

40. Ububha kanye nokungalingani okusukela ekwehlukani ngokobuhlanga kunezisusa zezinkinga iNingizimu Afrika okumele ilwisane nazo uma ifuna okuqeda ifa likahulumeni wobandlululo. Akukhona ukuthi abantu baphila ngaphansi kobubha kanye nokungalingani kuphela okuyindlela izinto ezingakhona, kodwa, ezintweni eziningi, ukucwaswa ngezizathu eziningi.
41. INingizimu Afrika akukhona ukuthi inenkinga yokucwasa ngokwebala, kodwa iphinde ibe yokungabekezelelani kwabantu bebodwa. Ngalokho i-NAP ayiqondile ukubhekana nokungalingani njengokuba uhulumeni enezinye izindlela, njengoMqulu Wamalungelo Abantu, umthetho, kanye nezivumelwano eziningi zomhlaba nezivumelwano eziqonde ukubhekana nalokho.
42. Maqondana nokukhishwa ngaphandle ngokobuhlanga kanye nokucwasa, sinomthetho oqondene nalokho njenge-PEPUDA kanye ne-²² *Employment Equity Act*.²³ “Izisusa zezinkinga” eziningi – njengobubha, umhlaba, izindlu – kuyahambisana nobuhlanga, ukucwasa ngobuhlanga kanye ukuzondwa kwabantu bokufika ukungabekezelelani, ngalokho sikhona isidingo sokuphinde kuqiniswe inqubomgomo ekhona kanye nezinhlelo. ukucwasa ngobuhlanga
43. Ngalokho i-NAP ikhona ohlakeni lwengqikithi ethile, lapho igxila ebuhlangeni, ohlelweni olukhulu lukahulumeni lokusebenza, oluhlanganisa i-PEPUDA kanye nomthetho Wamacala Enzondo okukhulunywe ngawo.

Umhlaba

44. Indaba yomhlaba yindaba ebanga umunyu kakhulu eNingizimu Afrika futhi yile “edinga ukuthi sibuyele ekugcinweni komlando ukuze sibhekane namaqiniso angemnandi ngathi”.²⁴
45. Ukususwa emhlabeni kungumsuka wokungalingani ngokomnotho kanye nokususwa kweningi labantu abamnyama eNingizimu Afrika. Amaphethini okuba nomahlaba aveza umlando wokungabibikho kobulungiswa komnotho ekuphathweni abamazwe asentshonalanga kanye nohulumeni wobandlululo. Ngaphezu kwezinhlelo zokubuyisela umhlaba kubantu, iningi labantu abamnyama basahlala ezindaweni zasemakhaya futhi banqwabelenni emijondolo, abakwazi ukuthola umhlaba okhiqizayo. Bagcineka bengaphandle ekubeni nomahlaba osenanini lebhange kanye nomahlaba wokutshalela

²² *The Promotion of Equality and Prevention of Unfair Discrimination Act*, ka-2000 (uMthetho wesi-4 ka-2000)

²³ *The Employment Equity Act*, ka-1998 (uMthetho wama-55 ka-1998)

²⁴ Nzimande, “*Land Question: It's about identity*”, Mail & Guardian, 28 Feb 2018 (<https://mg.co.za/article/2018-02-28-land-identity-white-guilt>)

ukudayisa kanye nokuba nebhizinisi. Lokhu kukala kakhulu amandla okukhiqiza abantu abamnyama kanye nokukwazi kwabo ukwakha umcebo kanye nokuphuma endlaleni.

46. Emuva kweminyaka eminingi yokubuswa abantu abavela emazweni asentshonalanga kanye nohulumeni wobandlululo, iNingizimu Afrika yentando yeningi yabeka ukuphinde yabe amalungelo omhlaba ngenhloso yokulungisa ukungabibikho kobulungiswa kwangaphambilini kanye nokwenza isisekelo sokuthuthuka okulinganisayo. Ekufuneni ubulungiswa bomphakathi, ukubuyiselwa komhlaba kufuna ukwenza okungaphezulu kokuqeda ukucwasa ngobuhlanga kwangaphambilini: kuzobe kungukweseka abantu abampofu futhi kungakhuthaza ukulingana ngokobulili, ukushintsha amaphethini okukhiqiza kanye nokutshala, ukuqala ukushintsha ubumbaxambili kwezolimo ngokucima ulayini phakathi kwezindawo zokutshalela ukuthengisa kanye nezendawo zokuhlala ezweni.
47. Ukwabiwa kabusha komhlaba uyisu laseNingizimu Afrika lokulwa nobubha. Lena yingxenye ebalulekile yokulungisa ukungabibikho kobulungiswa ekuthathweni komhlaba, okusaqhubeka nokuba yindlela umcebo ongakhona eNingizimu Afrika.
48. Inkulumo mpikiswano emaqondana nesigaba sama-25 soMthethosisekelo wethuimaqondana nombuzo womhlaba kanye nokucazwa ngokulingana komhlaba. Lokhu kuyadingeka ukulungisa ukubibikho kobulungiswa kwangaphambilini okwaqala ngonyaka ka-1652 ngokuphathwa ngamazwe zentshonalanga okwaqhubeka kwaba nguhulumeni wobandlululo. Ukungalingani kokuthola umhlaba kanye nemithelela yakho engemihle kungubungozi ozinzweni lwezepolitiki zakusasa futhi kudinga ukulungiswa.
49. Ukucwaningwa kwamabhuku Komhlaba kwangonyaka ka-2017 kwabika ukuthi kumaphesentu angama-76 omhlaba kazwelonke wezolimo, amaphesenti angama-72 ungowabantu abamhlo baseNingizimu Afrika, amaphesenti ayi-15 ongawabantu abangamakhaladi, ongamaphesenti ayi-5 owabantu abangamandiya, ongamaphesenti ama-3 ungowabanye. Abantu besifazane bona banomhlaba ongowabo ongamaphesenti ayi-13 omhlaba otshalwayo. Namhlanje, ukuba nomhlaba eNingizimu Afrika kusahamba ngokobuhlanga kanye namadoda.
50. Inselelo ngokubuyiselwa komhlaba ukuthi kuhamba kancane. Ngonyaka ka-1994 uhulumeni wayenenhloso yokudlulisa amaphesenti angama-30 omhlaba okhiqizayo usuwonke ngonyaka ka-2014. Lokhu akuzuzwanga. Ukusetshenziswa kwemigomo “yenani lezimakethe” kanye “ofuna ukuthenga, ofuna ukudayisa” okunokuthi “ukulingana” ekukhokhelweni kwabanini bomhlaba kuyinkinga enkulu.
51. Kuze kube yimanje, amahektha ayizigidi eziyi-8.4 omhlaba utholakele ngezinhloso zokubuyisela umhlaba, izigidi ezi-4.9 zamahektha ohlelo lokuhlukanisa umhlaba kanye nomhlaba wokuhlala; kanye namahektha ayizigidi ezi-3.5 zohlelo lokubuyisela umhlaba. Lokhu kwenza amaphesenti ayi10 omhlaba wezolimo.
52. Uhlelo lwePhalamende Lokuthatha Umhlaba Ngaphandle Kokukhokhela wenza kwaba nocwaningo olwenziwa yiKomidi Lokubuyekeza uMthethosisekelo Wephalamende, kokunye,

isidingo sokuchibiyela Isigaba sama-25 soMthethosisekelo ukuvumela ukuthathwa komhlaba ngaphandle kokukhokha.

53. Imizamo yokubhekana nokwabiwa komhlaba okulinganayo seyinyuswe yayiswa ezingeni eliphezulu likahulumeni, nekomidi longqongqoshe (IMC) kwezomhlaba – usihlalo okunguSekela Mongameli – lisunguliwe ukwenza kanye nokuqalisa izindlela zokusheshisa ukubuyiselwa komhlaba. Ukwengeza, iphaneli yabantu abayi-10 labayali behhovisi likamongameli, abamele yonke imikhakha, baqokiwe ukuthi baveze izindlela uHulumeni angaqalisa uhlelo lokubuyiselwa komhlaba olulungile futhi olulinganayo elilungisa ukungabi bikho kobulungiswa kwangaphambili, ukunyusa imikhiqizo yezolimo, ukukhuthaza ukunyuka komnotho kanye nokuvikela ezokudla.

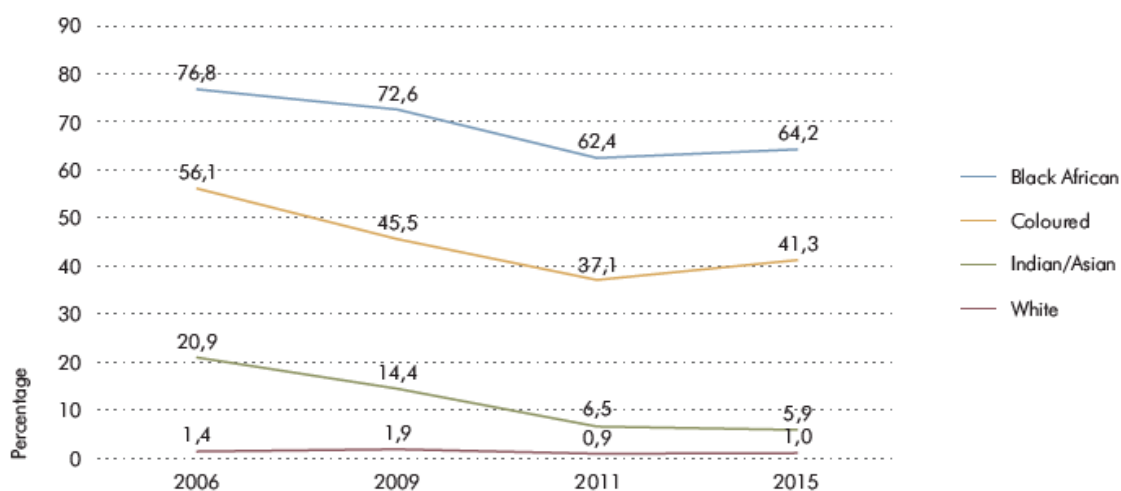
Ububha, ukungabibikho kwemisebenzi anye nokungalingani

54. Lapho inkulumbo mpikiswano iqhubeka ngethuluzi okuyilona elifanele ukukala ububha, akukho ukuphikisana ekutheni ububha kanye nokungabibikho kwemisebenzi kuyizinsalelo ezenza kungabi bikho uzinzo eNingizimu Afrika. Khona laba abathi iNingizimu Afrika yentando yeningi fanele ngabe yenze okuningi ukulwisana nalezi zinkinga. Noma zingaba yiqiniso lezo ziphakamiso, iqiniso lithi ububha abantu abayizigidi abaphila ngaphansi kwabo eNingizimu Afrika kungenxa yomlando wokuphathwa ngabantu abasuka emazweni asentshonalanga kanye nohulumeni wobandlululo.
55. Noma iNingizimu Afrika emuva kukahulumeni wobandlululo isithokozele iminyaka ilandelana yokukhula komnotho, futhi nangaphezu kokungenelela okwenziwa nguhulumeni, ububha bunenkani. Okunye okwenza kube nzima kakhulu igebe elikhulu phakathi kwabantu abanakho kanye nabangenakho, okwenza iNingizimu Afrika ibe mgumphakathi ongalingani emhlabei wonke. Lokhu kukhula komnotho kusho ukuthi abantu abanothile banothile kakhulu bese laba abahluphekayo, bahlupheka kakhulu, ngamazinga aphezulu abantu abaphila ngaphansi kobubha kungabantu abamnyama.
56. Uhulumeni uzibophezele ekuqedeni ububha, futhi inqubomgomo iveza lokhu kuzibophezela. Ifomula yokulingana esetshenziswa ukudlulisela emikhakheni kahulumeni wezifundazwe kanye nowasekhaya iqukethe indlela yokwaba kabusha. “Iholo lomphakathi” lisetshenziswa njengendlela yokwaba kabusha ibhajethi kahulumeni ngenhloso yokwenza ncono izimpilo zabantu abampofu kanye nokwehlisa ukubiza kwempilo. Lokhu kuzuzwe, kokunye, ngokuhlinzeka isisekelo sezempilo zamahhala; izikole zamahhala; isibonelelo sabantu abadala kanye nezingane; izindlu; kanye nezisiza eziyisisekelo zamahhala (amanzi, ugesi kanye nokuhlanzeka) emizini ehluphekayo. Noma lenqubomgomo kanye nokungenelela kwehlise isimo sobubha kusukela ngonyaka ka-1994, izwe liyaqhubeka nokubhekana nezinsalelo zamazinga aphezulu obubha, ukungalingani kanye nokungabibikho kwemisebenzi.
57. Noma kunedlanzana Labantu abamnyama abazuza kumadividenti entando yeningi, isakhiwo sabantu abanothile namanje sisaveza umphakathi okusamele uqede ukwakhiwa

kwezomnotho zomphakathi kukahulumeni wobandlululo. Uhulumeni wobandlululo udlulisele uhulumeni wentando yeningi ngomlando lapho ubuhlanga kanye nekilasi kuhambisana

58. Ukuqonda ububha njengento eyenziwe ngabantu, ngalokho njengento engaqedwa, ngungumbono waloluHlelo Lokusebenza Lukkazwelonke lokulwa nobuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufikakanye nokungabekezelelani okufanayo. I-NAP ithi ukuthathelwa kanye nokukhishelwa ngaphandle kwabantu abaningi abamnyama kuyinto eyisizathu esisemqoka sokuthi iningi Labantu ezweni lethu besahlupheka.
59. Ububha budlala indima enkulu ekugcineni ubuhlanga. Ngalokho, ukwabiwa kwamandla omnotho ngokulingana kusenhliziyweni yoshintsho oludingekayo lwezinhlanga kanye nozinzo lomphakathi eNingizimu Afrika.
60. Ububha buxhunyaniswa nokubamba iqhaza. Njengokuba i- *United Special Rapporteur on Extreme Poverty and Human Rights* sho ukuthi ububha buyinkinga okumele kubhekanwe nayo ngokukhulu ukushesha. Laba abaphila ngaphansi kobubha, amalungelo abantu amaningi abakwazi ukuwathola. Kwezinye zezinto abangazitholi, imfundo engekho sezingeni elifanele/ukungakwazi ukuthola imfundo, ezempilo noma amanzi ahlanzekile okuphuza kanye nenhlanzeko yesisekelo. Isikathi esiningi bakhishelwa ngaphandle ekubambeni iqhaza ngokufanele ohlelweni lwezepolitiki kanye nokuthola ubulungiswa ekulinyazweni kwamalungelo abo. Ububha bungaba yizizathu zokulinyazwa kwamalungelo athile, isibonelo, njengokuba abantu abahluphekayo bephoqeleka ukuthi basebenze ezindaweni ezingaphephile futhi ezingenayo impilo. Futhi kungaba khona ububha ngenxa yokulinyazwa kwamalungelo abantu, isibonelo lapho izingane zihluleka ukuphuma ebubheni ngenxa yokuthi uMbuso awukwazi ukuhlinzeka ukutholakala kwemfundo efanele. Ngalokho ukuqedwa kobubha akumele kube yinto okumele ibonwe njengesipho, kodwa njengodaba lamalungelo abantu. Ukunyukwa kwabo emazweni angakwazi ukubuqeda ukuqeda ukulinyazwa kwamalungelo abantu.²⁵
61. Abantu abamnyama eNingizimu Afrika bayaqhubeka nokuveza izinga eliphezulu lobubha. Ngonyaka ka-2015, amaphesenti angama-47 amakhaya aholwa ngabantu abamnyama ayahlupheka. Lokhu kwakuphezulu kakhulu uma kuqhathaniswa namaphesenti angama-23 emizi eholwa ngabantu abangamaKhaladi, ngaphezudlwana kwephesenti eli-1 lomphakathi emizini eholwa ngabantu abangamaNdiya/abangabase-Asia baseNingizimu Afrika, kanye nephesenti elingaphansi kweli-1 kulabo abasemizini eholwa ngabantu abamhlophe. Abantu abamnyama baseNingizimu Afrika bangaphansi kobubha kakhulu ngokumela abantu abayisishagalolunye kubo bonke bantu abayishumi abaphila ngaphansi kwe-UBPL (ulayini ophezulu wobubha). **Ithebula loku-1** ngezansi liveza ukubalwa kobubha ngokweqembu lomphakathi ngonyaka ka-2006, 2009 kanye noka-2011 kanye noka-2015:

²⁵ <https://www.ohchr.org/EN/Issues/Poverty/Pages/SRExtremePovertyindex.aspx>



62. **Ithebula lesi-2** ngezansi liveza igebe ngokobubha ngokweqembu lomphakathi ngalinye ngonyaka ka-2006, 2009 kanye noka-2011 kanye noka-2015:

	Headcount (P_0)				Poverty gap (P_1)				Severity (P_2)			
	2006	2009	2011	2015	2006	2009	2011	2015	2006	2009	2011	2015
Total	66,6	62,1	53,2	55,5	35,6	33,5	25,5	27,7	22,5	21,3	15,0	17,0
Black African	76,8	72,6	62,4	64,2	41,8	39,8	30,3	32,5	26,6	25,5	18,1	20,1
Coloured	56,1	45,5	37,1	41,3	24,9	20,4	14,3	16,9	14,3	11,3	7,3	9,1
Indian/Asian	20,9	14,4	6,5	5,9	6,9	4,0	1,9	1,5	3,2	1,4	0,8	0,5
White	1,4	1,9	0,9	1,0	0,4	0,8	0,4	0,4	0,2	0,5	0,2	0,2

63. Iphefenti Labantu abazuzile ezibonelelweni zikahulumeni likhuphukile ukusuka kumaphesenti ayi-12,8 ngonyaka ka-2003 kuya kumaphesenti angama-30,8 ngonyaka ka-2017. Bangaphezu komuntu oyedwa kwabathathu abantu abamnyama eNingizimu Afrika (33,8%) bathola isibonelelo sikaqulatheni, ngokuqhathanisa amaphesenti angama-29,3 abantu abangamaKhaladi, kanye namaphesenti ayi-14,5 abantu abangamaNdiya/abangabase-Asia. Ngokuqhathanisa, umphakathi ongamaphesenti ayi-6 abantu abamhlophe abathola imali yesibonelelo sikaqulatheni.
64. Umbiko ongemdala owenziwe Yibhange Lomhlaba ngokusebenzisana Nehhovisi Lomabhalane Lekhomishana Yokuhlelwa Kukazwelonke eMnyangweni Wokuhlela, Ukuqapha kanye Nokuhlola, kanye Nezibalo zeNingizimu Afrika uveza ukuthi, sekukonke, amazinga obubha ehlele namhlanje uma kuqhathaniswa nonyaka ka-1994. Ukwenyuka kwesimo somnotho emuva kokuphela kobandlululo ngonyaka ka-1994 kuze kube unyaka ka-2011 kweseke ukwehliswa kobubha eNingizimu Afrika, noma isimo somnotho singesihle eminyakeni emuva kwalokho. Umnotho njengamanje awukwazi ukwenza imisebenzi elingene, inani labantu abangenayo lalingamaphesenti angama-27,7 ekoteni yesithathu

yonyaka ka-2017. . Intsha kanye nabasebenzi abangenawo amakhono athwala umthwalo wenkinga njengokuba abaqashi befuna abasebenzi abanamakhono, futhi izinga lokungabi nomsebenzi kwentsha lalikumaphesenti angama-38,6. Ngalokho, izinga lobubha linyukile phakathi konyaka ka-2011 kanye no-2015. Lokhu kuyisikhumbuzo ukuthi izinkinga zalelozwe zomnotho womphakathi zijulile, ziwuhlelo futhi ezesikhathi eside.

Ukushintshwa kwesikhungo zikaHulumeni kanye nezangasese ezisemqoka

65. Ngaphansi kokubuswa ngamazwe asentshonalanga kanye nohulumeni wobandlululo, izikhungo zomkhakha kahulumeni kanye nezowangasese zazisetshenziswa njengamathuluzi okucwasa ngokobuhlanga kanye nokucindezela abantu abamnyama. Umlando wezemisebenzi yabathile usenzeka namanje eNingizimu Afrika Yentando yeningi. Noma inqubekela phambili ikhona emisebenzini yomphakathi, ushintsho ezindaweni eziningi alugculisi. Umkhakha wangasese awusheshi ngendlela okumele usheshe ngayo maqondana noshintsho, okuhlanganisa maqondana nokwakha isiko elihlanganisayo ezindaweni zokusebenza.

Imfundo

66. Ngokomlando, imfundo yayisetshenziswa njengethuluzi lokucindezela eNingizimu Afrika. Ukunqabelo imfundo elinganayo kanye nengeyona eyobuhlanga emphakathini weningi kwakungenye yamathuluzi asemqoka ombuso wamazwe asentshonalanga kanye nohulumeni wobandlululo ukuqinisekisa ukungathuthukiswa, kanye nokungavumeli, ukuthi abantu abamnyama bakwazi ukuthola ulwazi. Ngokunika iningi abantu abamnyama imfundo engathuthukile kanye nemfundo ecwasayo i-*Bantu Education* eyaholela emlandweni yemibhikishweni yabafundi kanye nomzabalazo wonyaka ka-1976 kanye neminye. IUmzabalazo we *#RhodesMustFall* owaqala eNyuvesi yaseKapa ngonyaka ka-2015 wawulalelwe ukuthi kususwe umfanekiso ka-Cecil John Rhodes, kodwa umkhankaso wamaka ukuqaliswa imibhikisho emikhulu yabafundi. Ezweni lonke, abafundi babefuna “kususwe imfundo yasemazweni asentshonalanga” emanyuvesi kanye nasemfundweni ephakeme, kwezinye izinto.
67. Iziphazamiso zokwakhiwa kokutholakala kwelungelo lemfundo zikhona. Ucwangingo lukhomba ukuthi ukuphikelela komphumela wemfundo isimo somnotho womphakathi. Njengoba umlando weNingizimu Afrika, kunokuhlangana kobubha, ubuhlanga kanye nomlando wokungami kahle. Noma imfundo kanye nenqubomgomo yezomnotho kwenzelwe abampomfu umthelela ongemuhle wezinto zomlando wasekhaya akukwazi ukuthi kususwe. Ngalokho sivinini sokuthuthukiswa komphakathi kanye nokomnotho ezweni yisithiyo esizothatha isikhathi eside emuva kokwazi ngokugcwele kwelungelo lemfundo.
68. INingizimu Afrika isabhekene zokucwasa ngobuhlanga kanye nokungalingani ezikoleni kanye nezikhungo zemfundo ephakeme. Noma kunenqubekela phambili kanye kokuvunyelwa kwinqubomgomo yenqubekela phambili yokuphuthumisa ukuhlanganiswa kwabantu, izwe lethu, esikhathi nesikhathi, livakashelwa yizigameko esiqinisekisa ukuthi idimoni lokucwasa

ngokobuhlanga ezikoleni kanye nezikhungo zemfundo ephakeme alivumi ukuphuma, futhi izikhungo zethu eziningi zokufunda ziyaqhubeka nokulwela ukuhlanganiswa kkezezinhlanga.

69. Isahluko sesi-9 Sohlelo Lukazwelonke Lokuthuthuka sabona izwe lapho zonke izingane zikwazi ukuthola kanye nokuzuza emfundweni esezingeni eliphezulu. Kunezinselelo ezibhekene nemfundo. Izinto zangaphandle kwesikole, njengobubha, kanye nezimo zomnotho womphakathi, zidlala indima. Izibophezelo zomndeni, ukusebenza ekhaya, kanye nokukhulelwa ziblwane njengezinto ezenza ingatholakali imiyalelo. Ukwengeza, abafundi abaningi eNingizimu Afrika banenkinga yokungezwa ulimi lokufundisa ekilasini.
70. Ezinye izinto zihlanganisa ukuthi izingane eziningi eNingizimu Afrika azihlali endaweni eyodwa nabazali bazo. Ububha kanye nokungafundi kwabantu abadala kwenza ukuthi abazali bangakwazi ukuzibandakanya emfundweni yezingane zabo. Iningi labantu abasha balahlekelwa yithuba lokuthola imfundo ephakeme, ngenxa yokuthi abakwazi ukuyikhokhela.
71. INingizimu Afrika inezikole zikahulumeni kanye nezizimele. Ekupheleni konyaka ka-2015, kwakunezikole zikahulumeni eziyi-23 905 kanye nezikole ezizimele eziyi-1786. Izikole zikahulumeni zihlanganisa lezi ezikhokhelwa nguhulumeni kanye nalezi enye ingxenye ekhokhwa igatsha lokwengamela isikole. Esikhathini esiningi kunokwehluka okukhulu esilinganisweni phakathi kukathisha nomfundi, izakhiwo, izinsiza kanye nokukwazi ukukhokha phakathi kwalezi zinhlobo ezahlukene zezikole zikahulumeni.²⁶
72. ezinye zezinselelo ezinkulu ukuthi izikole kanye nezikhungo zemfundo ephakeme azihlanganisi zonke izinhlobo ngokugcwele. Kumele sibhekane nomlando wokwehlukaniswa kwemfundo kanye nokubhekana nomqondo kanye nokubandlulula okwenza ukuthi kuqhubeka kube nokucwasa ngokwebala. Kumele siphinde sibhekane nokushintshwa kanye nomthelela endleleni umlando wethulwa ngayo futhi sikhuthaze ukubekezela kanye nokuhlonipha ngokwehlukana ngokobuhlanga, ngokwesiko kanye nenkolo.
73. Kubalulekile ukuhlanganisa uqeqesho kanye nokufundisa ngokungacwasi ngokobuhlanga kukharikhulamu, ikakhulukazi izinto ezibalulekile kanye nezinto zentando yeningi kanye nokwenza ikharikhula ebhekana nobuqiniso, ukungathathi uhlangothi kanye nokuba neqiniso ngomlando wethu obuhlungu kanye nokukhuthaza ukuhlangana okukhulu ezikoleni. Kudingeka ukuthi siqinisekise ukuthi izikole azihlukanisiwe kodwa zihlanganisiwe. Izikole kumele ziveze intando yeningi, ukwahlukana kwezinhlanga kanye nokunotha kwamasiko ezwe lethu. Namhlanje uhulumeni usebheke izindlela ezahlukene ukwenza ncono amalungelo abantu kanye nokuqwashisa ngoMthethosisekelo ezikoleni. Isinyathelo esinjengomncintiswano we-*National Schools Moot Court*, umncintiswano womlando ka-Albert Luthuli kanye nokwenza umlando ube yisifundo ezibalulekile ezikoleni kubaluleke kakhulu ukuqwashisa ngamalungelo abantu. Ukwengeza, izikole azingenazo izilimi zendabuko ziyaphoqwa ukuthi zibe nazo.

Ukukhiqizwa kolwazi

²⁶ <https://www.education.gov.za/EducationinSA/tabid/327/Default.aspx>

74. Ukucindezelwa kanye nokucwaswa kwabantu abamnyama kwakwesekelwa ngencazelo yesayensi mbumbulu, eyayikhishwa yizindlu zokushicilelwa zabantu abamhlophe ngenhloso yokushintsha iqiniso nge-Afrika kanye nokuveza abantu abamhlophe njengabahlaliphe kakhulu ukwedlula zonke izizwe. Ngalokho abantu abamnyama babekhishiwe emikhakheni yokukhiqiza ulwazi, futhi kakubhalwa ngabo ngokubona kwababhali abangabantu abamhlophe. Lokhu kukhishwa kwakwenziwa ukuze kukhiqizwe lezi zinkolelo zezinhlanga. Lezi zinkolelo ziyaqhubeka ngezindlela eziningi eziphansi eNingizimu Afrika yentando yeningi.

Ukukhipha umqondo wokubuswa ngamazwe asentshonalanga

75. Njengokuba kwaziwa ukupheqoela ngokohlelo lomphakathi eminyakeni engaphezulu kwamashumi amathathu, umcabango wobuhlanga uyinto eyenzekayo kubantu kanye nasemiphakathini. Ukuqhubeka nokungafani ngokunotha kanye ngezindlela ezingafani zokuthola izinsiza kwamaqembu ahlukene ezinhlanga, kanye nomthelela wobuhlanga ezimweni zomphakathi, kwenza kuqhubeka nokugcina imibono kanye nendlela yokubuka ubuhlanga. Noma kungavunywa ezidlangalaleni, inkolelo yokubusa kwabantu abamhlophe isekhona ngokulingana kubantu abamhlophe kanye nabamnyama baseNingizimu Afrika. Inkolelo yobuncane kwabantu abamnyama kufundiwe kwafakwa ezinqondweni ngokomlando zalabo ababethathwa ngokuthi bancane. Ikhomishana Yamaqiniso kanye Nokubuyisana (“TRC”) iwuhlelo olusifundise ukuthi ukwazisa umlando kwangempela akufani nokuyithanda, kodwa ukuqinisekisa ukuthi akubi yisipokwe esisilandelayo kusasa.
76. INingizimu Afrika ngumphakathi ohlukumezeke kakhulu futhi oqhubekayo nokuphila osizini olwenziwa ngukuphathwa amazwe asentshonalanga kanye nohulumeni wobandlululo. Ngungokuba nalokhu emqondweni ukuthi le-NAP yazisa labo ababeyizisulu futhi abaqhubekayo nokuba yizisulu zobuhlanga, ukucwasa ngokwebala, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo. Sikholelwa ngokuthi ngokwazisa isihluku somlando wethu, sizohlanganisa imizamo ukusindisa ikusasa emithwalweni yobuhlanga bangaphambilini.
77. Kumele futhi kwaziswe ukuthi inkululeko yangempela yokucwasa ngokwebala iqala emqondweni. Ukubhidliza kanye nokuveza ukungcwele bezinkolelo zobuhlanga kumele kube yingxenye yesu lokuqeda ubuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo – engqikithini yoMthethosisekelo.

Ukuhlangana komphakathi

78. Isiko laseNingizimu Afrika lokucwasa ngokobuhlanga luyaqhubeka nokuchaza Ubudlelwane ngokwezinhlanga kanye nokuhlangana kwezinhlanga emphakathini wethu. Ngalesi sizathu, ukuhlangana komphakathi kumele kube yinsika yokushintshwa komphakathi. Ukuhlangana komphakathi kumele okuphikisana nokukhishelwa ngaphandle kanye nokuhlukaniswa, futhi kumele umoya wokuhlangana okumele uhole imizamo kazwelonke ehlose ukwakha umphakathi omusha. Okubaluleke kakhulu kulolu hlelo ukukhuthaza ukuzizwa kundawonye kanye nokugubha ukwahlukana kwabo bonke abahlala eNingizimu Afrika. Lokhu

kuhlanganisa ukuqinisekisa futhi kwesiko elincishisiwe lwabantu abamnyama. Ukwakha iNingizimu Afrika yentando yeningi eyodwa futhi engacwasi ngokwebala kuyinto ebaluleke kakhulu kuzwelonke. ukucwasa ngobuhlanga

Inkulumo yomphakathi

79. inkulumo yomphakathi eNingizimu Afrika yenziwa ikakhulukazi ngendlela yokusakaza esezingeni eliphezulu. Ezokusakaza yimoto ebaluleke kakhulu ekudluliseni emibono kanye nemilayezo maqondana nobuhlanga, ukucwasa ngokwebala, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okunjalo. Ezokusakaza zisetshenziswa ngezindlela ezinhle kanye nezimbi zokukhuthaza ukungacwasani kanye nokuphikisana nokungabekezelelani ngokobuhlanga okuphambene nokugqugquzela imibono yobuhlanga. Ngokomlando, ukubusa kwamazwe asentshonalanga kanye nohulumeni wobandlululo bazisebenzisa ezokusakaza ukufaka ubuhlanga. ENingizimu Afrika entsha, inkulumo yomphakathi ngendima edlalwa abezindaba kanye nokukhulumo ngezinto ezimaqondana nobuhlanga kanye nokuzondwa kwabantu bokufika kumele kugcinwe kuphela ukuze izwe lethu lazi ukuthi kumele libhekane kanjani nezinto ezinjalo kanye nokunakwa okumele kunikwe indima edlalwa yimithombo yezokuxhumana

Ukuzondwa kwabantu bokufika

80. ukuzondwa kwabantu bokufika kungukusaba, ukungathembi, noma ukuzonda abantu abangaziwa, abokufika, nanoma yini ethathwa ngokuthi etokufika noma ehlukile okungafanele futhi ikakhulukazi ngezizathu ezingenabufakazi kanye nemibono Eyejwayelekile. Kungaziveza ngezindlela eziningi ezweni. Isibonelo, ngokuhlukumeza umuntu ngenxa yezwe asuka kulo noma indlela ebukeya ngayo, ukulinyazwa, ukubulawa, ukuqeda isizwe endaweni, kanye nokuxoshwa kweningi ezweni.
81. INingizimu Afrika, phambilini kanye nasesikhathi esingesidala, ibe nokuzondwa kwabantu bokufika okukhulu lapho kwabulawa futhi kwalinyazwa abantu bokufika futhi kwantshonstha impahla yabo futhi kwabulawa impahla yabo. ukuzondwa kwabantu bokufika kuveza inselelo enkulu yokuvikela amalungelo abantu. Kubalulekile ukuthi uhulumeni, umphakathi womthetho, emiphakathini yokufika kanye neyasekhaya kanye nabaholi bemiphakathi okuhlanganisa abaholi bendabuko ukuthi balwe nalokhu. Izindlela ezimbalwa ezingasetshenziswa ukulwa nokuzondwa kwabantu bokufika kuhlanganisa ukwazisa kanye nokungavumelani izenzo zodlame uma zenzeka, ukumisa imithetho yamacala enzondo kanye nokuqinisa ezamaphoyisa, kanye nokushushisa abanamacala.
82. Kubalulekile ukuqapha kanye nokubika maqondana nokuhlaselwa kanye nokuthintana nemiphakathi ethintwa yizigameko zodlame ukwehlisa ukwesaba, ukusiza izisulu, kanye nokwenza ncono ukubika izehlakalo. Kubaluleke ngokulingana ukukhuthaza umoya wokuhlangana ngokukhuluma nemiphakathi lapho ukuzondwa kwabantu bokufika kukukhulu. Ohulumeni kumele badlulise imilayezo ecacile ukuthi udlame olubhekiswe kwasuka kwamanye amazwe kanye nokuhlasela abokufika angeke kubekezelelwe futhi nokuthi labo abakwenzayo bazoshushiswa.

Ukucwaswa ngenxa yobuzwe

83. Ngenqubomgomo yokwehlukanise bese uyabusa, ngohulumeni wobandlululo, abantu abamnyama babehlanganise enzindaweni zasemakhaya kanye nasemalokishini, lezi zindawo ezenzelwe abantu abamnyama ngokobuzwe babo. Esikathini ezithile, abantu bezizwe ezithile zazikwezinye izingxeny zemiphakathi yabantu abamnyama. Noma uhulumeni wobandlululo wanqotshwa, iNingizimu Afrika izoqaphela ifa llokucwasa ngokobuzana. UMthethosisekelo ubeka izisekelo zokwakhiwa komphakathi lapho ukuthokozela ukwahlukana ngokwamasiko kuhlenganisa iNingizimu Afrika.
84. Noma “ukucwasa ngokobuzwana” kusekhona – kunezibonelo eziningi. Owangumongameli uThabo Mbeki wachaza “ukucwasa ngokobuzwana” njengenselelo yeNingizimu Afrika kanye nento eqhubela phambili inkohlakalo, njengokuba “kwakuyithuluzi elalisetshenziswa ngosopolitiki ukukhohlisa abanye bese beklomelisa abanye”.²⁷²⁸

Ukucwasa kanye nodlame olubhekiswe kwabesifazane

85. Ngokomlando, kunokuhlangana phakathi kokucwasa ngokobuhlanga kanye nokucwasa ngokobulili. Lokhu kuhlangu kwakusukela ekucindezelweni kwabesifazane okuvela kuwo wonke amasiko ezweni lethu. La masiko akhuthaza umqondo wobudoda owakhiwe ngamabomu ukwehlisa ubufazane. Kuyiqiniso elilinganayo ukuthi isimo esibuthaka sabantu besifazane emphakathini wethu kungenxa yokubuswa ngamazwe asentshonalanga kanye nohulumeni wobandlululo. Ngaphansi kukahulumeni wobandlululo, iningi labantu besifazane lalibheke ne nokucindezelwa okuphindeke kathathu, ngokobulili, okwekilasi kanye ngokobuhlanga.
86. Abesifazane kanye nezingane baseyiqembu elibuthaka emphakathini. Amalungelo abo ayalinyazwa, phakathi kokunye, ngodlame lwasekhaya, ukudayiswa kwabantu, yizithombe zocansi zezingane kanye nokuxhashazwa emsebenzini. Konke lokhu kunomthelela omubi enkululekweni yabantu besifazane kanye nenhlalakahle yezingane. Kuyiqiniso ngeNingizimu Afrika ukuthi ubuhlanga, ukucwasa ngokobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelani okunjalo kuyaziveza ngendlela ehlukene kanye ngezindlela ezinkulu kwabesifazane kanye nezingane. Lokhu kuhlangu Ukungabi kahle kwezimo zokuhlala, ububha, udlame kanye nezinye izinhlobo zokucwaswa.
87. Ngaphansi kukahulumeni wobandlululo, abantu besifazane abamnyama eNingizimu Afrika babebhekene nengcindezelo ephindeke kathathu, isb. Ngokobulili, ikilasi kanye nobuhlanga. Uhlobo lokwakhiwa kukahulumeni wobandlululo kwakunomthelela omkhulu ezimpilweni zabantu besifazane abamnyama. Ukucindezelwa ngokobulili kuvela ikakhulukazi ngamasiko omphakathi kanye ngezindlela zokucabanga okwesekwa futhi kuqhutshwa umbono wokuthi abantu besifazane bangaphansi.

²⁷ Isibonelo, indoda engashiwongo ngegama yacashunwa ikhuluma ngesiteleka emva kwesinqumo se-ANC sokwenza uThoko Didiza abe ngofuna ukuba yimeya okhethweni olwaluza. Wacashunwa ethi *“ANC ngeke ilethe umuntu ongumZulu osuka kwaZulu Natal ukuthi azophatha amaPedi, AmaXsinga kanye namaVenda, uma uthi uDidiza owasePitori, sitshele ukuthi owakuphi nePitori.”* (<https://www.thesouthafrican.com/racism-and-tribalism-still-engraved-in-most-south-africans/>)

²⁸ Keynote address on the opening of UNISA's College of Human Science (CHS), January 2014

88. Eningini labantu besifazane lobu budoda obufakiwe kwasho ukuphila kanzima: ngokomnotho, ngokwezepolitiki kanye namaqondana nokuqashwa. Abantu besifazane abamnyama bafakwa emisebenzini engafuni amakhono, ekhokhela kancane njengokuba Umsizi wasendlini kanye nokusebenza ezimbonini.
89. Ikomidi Lesivumelwano Sokuqeda zonke izinhlobo Zokucwaswa Kwabesifazane (CEDAWU), ekusongeni kwalo laveza ukuthi umlando kahulumeni wobandlululo kubantu besifazane wahlanganisa *“ukucwasa okuningi kanye nokungakhuli, futhi uyabonakala ezindaweni ezinjengamazanga aphezulu abantu besifazane abangasebenzi, abangafundie futhi abahlwempu kanye nasendaweni yodlame olubhekiswe kubantu besifazane”*. Ngalokho kubaluleke kakhulu ukuthi izidingo kanye nezimfuno zabantu besifazane zenziwe zibe ngezibalulekile ezingeni lukazwelonke kanye nasemphakathini kanye nasekhaya, ukuze kutholakale ukulingana.
90. Ngonyaka ka-2015, isinqumo saphasiswa Esigungwini se-UN sithathe i-ajenda yonyaka ka-2030 Yokuthuthuka Okugcinekayo. Izinjongo Zokuthuthuka Okugcinekayo eziyi-17 kanye ngezinhloso eziyi-169 zimele inhloso ukukhuthaza ukwenza eminyakeni eyi-15 ezindaweni ezibaluleke kakhulu ebuntwini kanye nasemhlabeni. Ikakhulukazi, injongo yesi-5 ‘ukuzuza ukulingana kanye nokunika amandla bonke abantu besifazane kanye namantombazane’, ngokulandela lokhu okuhambisanayo: (a) Ukuqeda zonke izinhlobo zokucwasa okubhekiswe kubantu besifazane kanye namantombazane yonke indawo; (b) Ukuqeda yonke inhlobo yodlame olubhekiswe kubantu besifazane kanye namantombazane ezindaweni zomphakathi kanye nangasese, okuhlanganisa ukuthengiswa kanye nokuxhashazwa ngokocansi kanye nezinye izinhlobo zokuxhashazwa; (c) Ukuqeda zonke amasiko ayingozi, njengokuphoqelela izingane ukuthi zishade kanye nokusokwa kwezingane ezingamantombazane.²⁹³⁰
91. Ukuzibophezela kweNingizimu Afrika ukuqeda ubuhlanga, ingcindezelo kanye nokuxhaphaza emphakathini wethu ngeke kungaphumeleli ukubhekana nombuzo wokulingana ngokobulili. Isipiliyoni seminye imiphakathi siyakhombisa ukuthi ukulingana ngokobulili Akuwona umphumela wokuzabalazela inkululeko noma ukukhululeka kwezwe. Kumele kubhekwane nakho ngokwakho. Ukuthola ukulingana okuyiqiniso, inqubomgomo kumele isuselwe ekuqondeni kwangempela kobudoda obu wufuzo kanye nendlela obuziveza ngakhona emphakathini wethu.
92. Ukulingana ngokobulili kuyinto ebalulekile kuMthethosisekelo eNingizimu Afrika. UMthethosisekelo ulwela ukuzuza ukulingana phakathi kwabantu besifazane kanye nabesilisa ngokuvimbela ukucwasa ngokwebala, ngokobulili kanye nezinye izinhlobo. Lokhu kwazisa kunesisekelo kuMthethosisekelo futhi kuvela emithethweni, inqubomigomo, izinhlelo kanye namasiko okwahlukene. Igunya loMthethosisekelo ekulinganeni ngokobulili licacile kanye nohlelo lomthetho lokuhlinzeka izakhiwo zokwakha umphakathi olinganayo ngokobulili.

²⁹ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, 21 October 2015, A/RES/70/1.

³⁰ *National Strategic Plan on Gender-based Violence Shadow Framework (Stop Gender Violence Campaign)*, 2017, page 22

93. Kuyakhathaza ukuthi bangaphansi kwamaphesenti angama-50 abantu besifazane abazi ngoMthethosisekelo. Ucwaningo luveza ukuthi maqondana nolwazi jikelele ngoMthethosisekelo, izinga lolwazi lwalulingana phakathi kwabaphenduli besifazane kanye nabesilisa. Amaphesenti angama-37 abaphenduli besilisa bakhombisa amazinga aphansi olwazi, lokhu kwakuyiqiniso namaphesenti angama-40 abaphenduli besifazane. Ekugcineni kwesikali, amaphesenti angama-36 abaphenduli besilisa babenolwazi oluphezulu lomthethosisekelo ngaphezu kwamaphesenti angama-32 abaphenduli besifazane.³¹
94. INingizimu Afrika inodlame olusezingeni eliphezulu kakhulu olubhekiswe kubantu besifazane emhlabeni, nodlame lobulili olubhekiswe kubantu bobulili abazikhethela bona noma ukuziveza kuvame kakhulu futhi yinto eyenziwe kwaba ngathi ifanele futhi alubikwa. Ngenyanga ka-Agasti ka-2018, umkhankaso we #TheTotalShutDown – umkhankaso wabantu besifazane (abazalwa bengabantu besifazane kanye nabashintshe ubulili) kanye nabantu abangalandeli ubulili bahambisa imemorandamu kuhulumeni besho ukuthi udlame olubhekiswe kubantu besifazane, kubantu besifazane abangalandeli ubulili kanye nazo zonke izinhlobo zabantu besifazane lufike emazingeni ngavumelekile futhi lwenza umonakalo okungakhulunywa ngawo, futhi nokuthi ngaphandle komnyakazo ohlangene okumele wenziwe yizo zonke izingxenye ezifanele zomphakathi kanye nokuba khona kokufuna ngokwezepolitiki, akukho okuzokwenzeka ukuqeda lesi siqalekiso. Imemorandamu iveza izimfuno zokuqala ezingamashumi amabili nane zokuvumela abantu besifazane kanye nabantu abangalandeli ubulili ukuthi bazi ngelungelo labo lokungabi yizisulu zodlame. Okulandela lokho futhi okwaba ngumphumela wemashi #The TotalShutDown, kwaba neSamithi eyabanjwa yihhovisi likaMongameli eyaqala mhla zizi-1 -2 kuNovemba ka-2018, eyathatha Isaziso sokulwa Nodlame Olubhekiswe Kwabesifazane kanye Nokubulawa kwabantu besifazane.

Ukuvimbela ukucwasa kanye nokubandlululwa kwabantu be-LGBTI

95. Akukho ukungabaza ukuthi udlame kanye nokucwasa ngenxa yobulili noma ukuziveza ubulili kusekhona. Inselelo isuka ekushintsheni kwendlela yokucabanga yomphakathi, ukuqinisekisa ukuthi abantu abazona izisulu njalo ngenxa yobulili abayibo, ubulili abazikhethele bona kanye ngobulili abaziveza ngokuthi bayibo.
96. Ucwaningo ngendlela okucatshangwa ngayo ngabantu abathandana nabobulili obufanayo kanye nabantu abangalandeli indaba yobulili eNingizimu Afrika, olwakhiqizwa yi-*The Other Foundation and the Human Sciences Research Council* lwathola ukuthi amaphesenti angama-55 lwabantu baseNingizimu Afrika aveza ukuthi bazolamukela ilunga lomndeni elithandana nomuntu wobulili obubodwa, kodwa amaphesenti angama-27 kuphela abanomngani noma ilunga lomndeni abalaziyo elithandana nabantu bobulili obubodwa; amaphesenti angama-51 bakholelwa ekutheni abantu abathandana nabantu bobulili obubodwa kumele babe namalungelo abantu njengabanye abantu, noma amaphesenti angama-71 abo bekholelwa ukuthi ukuthandana nomuntu wobulili obubodwa “akulungile”. Futhi luthola ukuthi phakathi

³¹ The Foundation for Human Rights' Socio-Economic Justice for All" (SEJA) Baseline Survey, 2017

kweminyaka u-2012 kanye no-2015, kube nokukhulu ukwenyuka kwenani labantu baseNingizimu Afrika “abavumelana kakhulu” nokuvumela umshado wabantu bobulili obubodwa. Abantu abayisishagalombili kwabayishumi bathi abakaze – futhi ngeke bazama – ukuhlukumeza ngamagama noma ngokomzimba umuntu ongalandeli ubulili.

97. Ucwangingo olwenziwe kungekudala lwenziwa Yinhlango Yamalungelo Abantu (“FHR”) iluveza ukuthi abaphenduli ababili kwabathathu (68%) bavumile noma bavume kakhulu ukuthi abantu eNingizimu Afrika bakhululekile ukuthi bakhethe futhi baveze ubulili babo ngaphandle kokwesaba ukwahlulelwa. Cishe amakota amathathu (74%) wabaphenduli abavumelananga noma abavumelananga kakhulu nokuthi ukuthandana kwabantu bobulili obubodwa kwakuphikisana namagugu omphakathi wabo. Le miphumela yayifana kubantu abangabaphenduli abangamaNdiya/abokudabuka e-Asia (72%), abamnyama baseNingizimu Afrika (73), abamhlophe (77%) kanye nabangamakhaladi (77) futhi nabaphenduli abesilisa (73%) kanye nabesifazane (74%).³²

Ukukhumbula izisulu kanye Nokuphola Kwezwe kanye Nokubuyisana

98. Ukuphathwa ngamazwe asentshonalanga kanye nohulumeni wobandlululo kwakuyinqubomigomo ecwasayo efaka abenzi kanye nezisulu. Iqiniso elingeke liphikwe kwakumele laziwe ukuze izwe lethu lizophola bese liqhubekela phambili. I-TRC yancoma ukuthi uhulumeni kumele aseke uchungechunge lokwahlukana ukubuyisela Ubuntu kanye nesithunzi kanye nokuvumela abasinda ukuthi baxolele umlando. I-TRC yaqhubeka yancoma ukuthi umphakathi ukhumbule izisulu zokuphathwa ngamazwe asentshonalanga kanye nohulumeni wobandlululo ngezinsuku zezikhumbuzo, ukwakhiwa kwezikhumbuzo zomphakathi emazingeni kazwelonke, ezifunda kanye nomasipala, kanye nokwethiwa kabusha kwezakhiwo zomphakathi ngamagama ezisulu. Kunesidingo sokuqinisekisa ukuthi izisulu zohulumeni wobandlululo ziyaqinisekiswa empilweni yomphakathi.
99. I-TRC ekupheleni kwegunya layo yanikela uhla lwamacala ngama-300 Ophikweni Lwezokushushisa kuZwelonke ngenhloso yokuthi iqhubeke nophenyo kanye nokushushisa. Ngaphezu kwengcindezi ku-NPA ngo-2004 kwacaca ukuthi ayifuni ukuwalandelela la macala. I-*Ukukhuthaza of National Unity and Reconciliation Act*, ka-1995³³ wahlinzeka ukuthi uma ukuxolela kungavunyelwanga noma kungafakwanga isicelo sakho noma kuvunyelwe, umthetho kumele udlale indima yawo lapho abenzi bobubi beshushiswa.
100. Ukululama Eqinisweni, ikakhulukazi emibuzweni yezikhungo kanye nohlelo, kuyaziswa futhi kuyaziwa namhlanje emkhakheni Wobulungiswa bokushintsha njengento ebalulekile ukubhekana nokungabikhona kobulungiswa kuhulumeni wobandlululo ukuze kuqinisekise ukuthi umlando awuvezi kuphela ukubusa kokwesabisa okwakwenziwa amaphoyisa egatsha lonogada ngokuveza izimo zonya zokuboshwa kanye nokuhlukunyezwa kanye nokushona kwababoshiwe ezandleni zamaphoyisa, kodwa ukuqinisekisa ukuthi labo ababenza lokho bajesiswe, ngalokho kuhanjise umyalezo ukuthi eNingizimu Afrika entsha ukuhlukumeza kanye nonya lwamaphoyisa angeke kubekezelelwe.

³² *Socio-Economic Justice for All (SEJA) Baseline Survey*, FHR, 2017

³³ uMthetho wama-34 ka-1995

101. Emphakathini ovulelekile futhi okhululekile njengowethu, abenzi bobubi abakwazi ukuthi bavunyelwe ukuthi baqgibe iqiniso futhi ngokwenza njalo balahle umlando wethu ngamaqiniso angaphelelanga angeke avumele ukuthi umphakathi uphole.
102. Umuntu nomuntu kanye nomphakathi ngamunye banelungelo abangeke balincishwa lokwazi iqiniso ngomlando. Ngenxa yokushintsha iqiniso kanye nokugodla ulwazi, iningi labenzi bobubi abalimaza amalungelo abantu bakwazi ukubalekela ukuhlolwa kanye nomthwalo wezenzo zabo. Abasinda kanye nemindeni yalabo abashona beboshiwe badinga ukwazi iqiniso ukuthi abantu babo ababathandayo bahlukunyezwa kanjani futhi babulawa kanjani ukuze bathole bavale amanxeba abo. Iqiniso kumele liqoshwe – yizisulu, hhayi abenzi bobubi.
103. Kuyimpoqo kubantu baseNingizimu Afrika abasuka kuzo zonke izindawo ukuthi baqale izinhlelo ezizikezele ekuqedeni umlando omubi kahulumeni wobandlululo kanye nokucwasa. Ngalokho kubalulekile ukuthi uhulumeni, nomkhakha wezinkampani, inhlangano yabasebenzi, kanye nezinhlangano zezenkolo ukuthi zenze izikali zazo (izinkomba) ezikala ukuzuza kwabo ukuqeda zonke izilonda zobuhlanga kanye nokuthola zonke izinto zokwakhiwa kwezwe kanye nokuhlanganisa umphakathi.
104. Ubuhlanga ngokohlelo kanye nofuzo lwabo kumele umphakathi ubhekane nabo njengokuba uma kunganjalo buzophinda buzikhqize bese buyazifaka ezizukulwaneni. Kungulomcabango owufuzo wokubandlulula ngokobuhlanga, ukwephuka kwezinto kwamagugu, ukungalingani ngamathuba kanye nobubha, kanye nokuncintisanela izinsiza ezincane kakhulu, okusiza kubhebhethekisa ubuhlanga kanye, kungekudala nje ukuzondwa kwabantu abasuka kwamanye amazwe. Ukucwasa ngenxa yobulili kanye nodlame olubhekiswe kubantu abathandana nabobulili obubodwa kuyinkinga enkulu. Kuningi okumele kwenziwe ukuvikelwa amalungelo omthethosisekelo kanye nomthetho leqeqebana labantu bobulili. Ukungalingani kanye nokucwasa kusekhona. Yingakho i-NAP idingeka.

Imisebenzi

105. *I-Commission for Employment Equity* embikweni wayo wakamuva izeza ukuthi ukumelwa komphakathi weqembu labantu abamhlophe kungaphezulu ngezikhathi eziyisithupha ku-EAP yabo futhi umphakathi weqembu labantu abangamaNdiya lingaphezulu ngezikhathi ezintathu ku-EAP yabo ezingeni lokuphatha okuphezulu. Iphinde ikhombise ukumelwa komphakathi weqembu labantu abamnyama ukuthi lihlawumbiselwe koyedwa kwabahlanu kanye nomphakathi weqembu labantu abangamaKhaladi uhlawumbiselwa kusigamu ku-EAP yabo kulei zinga lokusebenza.
106. **Itafula lesi-3** ngezansi liveza ukumelwa kwamaqembu aqokiwe emazingeni ahlukene okusebenza phakathi konyaka ka-2001 kanye no-2017.³⁴

³⁴ "Amaqembu aqokiwe" kusho abantu abamnyama, abantu besifazane kanye nabantu abaphila ngokukhubazeka:

(a) Abayizakhamizi zeRiphabhulikhi yaseNingizimu Afrika ngokuzalwa noma umlando: noma

(b) babe yizakhazamizi zeRiphabhulikhi yaseNingizimu Afrika ngokuvunyelwa-

(i) Ngaphambi kwamhla zingama-27 ku-Ephreli ka-1994; noma

(ii) Emuva kwamhla zingama-26 ku-Ephreli ka-1994 futhi abanelungelo lokuvunyelwa ukuthi babe yizakhamizi ngaphambi kwalolo suku kodwa bavinjelwa yinqubomigomo yohulumeni wobandlululo

OCCUPATIONAL LEVEL	PERIOD	WHITE	AFRICAN	COLOURED	INDIAN	MALE	FEMALE
Top Management	2001	87%	6%	3%	4%	87%	13%
	2017	67%	14.3%	5.1%	9.4%	77.1%	22.9%
Senior Management	2001	81%	9%	5%	5%	80%	20%
	2017	56.1%	22.1%	7.7%	10.9%	66.2%	38.8%
Professionally Qualified	2001	56%	33%	6%	5%	62%	38%
	2017	36.5%	42.2%	9.6%	8.8%	53.4%	46.6%
Technical Skilled	2001	18%	58%	18%	6%	60%	40%
	2017	19.6%	61.7%	11.3%	5.6%	52.9%	47.1%

107. Ekubhekeni okungenhla, kuyavela ukuthi ukulingana ngokusebenza kumele kuqhubekwe. Kusenesidingo esikhulu sezindlela zokusebenza ngokulingana eNingizimu Afrika.

Ukwabiwa kwamaholo

108. Ngokwe-*Income and Expenditure Survey* (IES)³⁵ yakamuva ibheke ukwenyuka kwamaholo ngokweqembu lomphakathi. Sibona ukunyuka okukhulu okwenzeka emakhaya angekho mhlophe. Amakhaya aphethwe abantu abangamaNdiya/Abase-Asia akhombise ukwenyuka ngamaphesenti angama-36.8 (ukunyuka kwemali engama-R68 013), kulandelwa eduze ngamakhaya aphethwe ngabantu abamnyama kumaphesenti angama-34,5 (ukunyuka kwemali engama-R17 859. Amakhaya aphethwe ngabantu abangamakhaladi abone ukunyuka ngamaphesenti angama-27,7 nkeholo (ukunyuka kwemali engama-R30 152), lapho amakhaya aphethwe ngabantu abamhlophe abone ukwenyuka ngephesenti elingu-0,4 kuphela noma okuhlalwumbiselwa emalinini engange-R1 412.
109. kodwa ke, ngaphandle kokukhula okukhulu kwamaholo emizini yabantu abangemhlophe, kusenegebe elikhulu phakathi kwamaqembu omphakathi. Imizi ephethwe ngabantu abamhlophe ngokwejwayelekile ihola izikhathi ezi-5.5 ngaphezu komuzi ophethwe umuntu omnyama owejwayelekile. Ngalokho, noma ukukhula kwamaholo kuveza izimpawu ezinhle, ukungalingani kuseyinselelo ezweni. Noma imizi ephethwe ngabantu besilisa ibona ukukhula okukhulu kunephethwe abesifazane. Kodwa ke, emizini ephethwe ngabesilisa, ihola elibikiwe ngokwejwayelekile lihlenganisa umlingani osebenzayo, ngalokho kungenzeka ukuthi inzuzo etholwe ngumlingani ithola umthwalo owengeziwe emalini engenayo emzini. Noma abantu baseNingizimu Afrika beceba, ngokwejwayelekile kusenamazinga aphezulu okungalingani ngokwamaqembu emiphakathi eyahlukene kanye nangaphakathi.

Table 4

³⁵ Income and Expenditure Survey 2010/11, Statistics SA

	IES 2010/11 (R)	IES 2005/06 (R)	Real Growth	Increase in Rand terms
South Africa	119 542	102 401	16.7%	17 141
Sex of household head				
Male	151 186	127 914	18.2%	23 272
Female	70 830	62 397	13.5%	8 433
Population group of household head				
Black African	69 632	51 773	34.5%	17 859
Coloured	139 190	109 038	27.7%	30 152
Indian/Asian	252 724	184 711	36.8%	68 013
White	387 011	385 599	0.4%	1 412

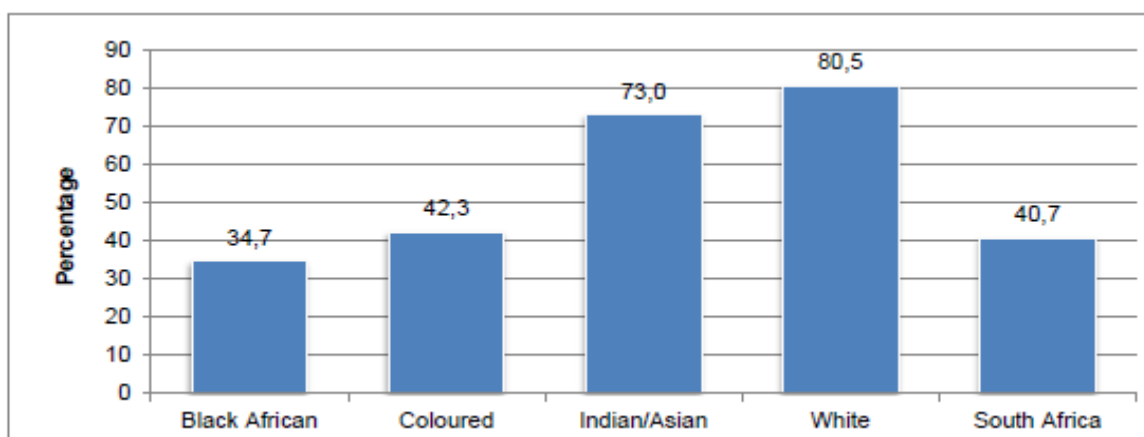
110. Lezi zinombolo ziveza Ubudlelwane obukhulu phakathi kobuhlanga kanye nekilasi, ikakhulukazi maqondana nokukhishwa ezintweni. Abantu abamnyama baseNingizimu Afrika bayingxanye eningi yabantu abakhishiwe ngokwezinsiza eNingizimu Afrika, lokhu okungaziwa yiningi labantu abamhlophe baseNingizimu Afrika. Le ngxenye yomlando odluliswe ezizukulwaneni zokuphathwa ngamazwe asentshonalanga yanyuka kakhulu kuhulumeni wobandlululo, okwathatha ubudlelwano phakathi kokucwasa ngokobuhlanga kanye nokungalingani nogokwekilasi ngokufanayo. Lelifa liyaqhubeka nokuphila nanamhlanje.

Izindlu

111. Imiphumela ye-*General Household Survey*, ka-2017³⁶ lamaphesenti amayunithi okuhlala anamakamera ayisithupha noma ngaphezulu ngokweqembu lomphakathi okuvezwe **Ethebuleni lesi-5** elingezansi. Inani lamagumbi lihlanganisa onke amagumbi endaweni (okuhlanganisa izindawo zangasese kanye nezokugezela). Lo mbuzo uveza amazinga okuphila omuzi ngamunye futhi kungahlanganiswa nezinye izinto ezinjengemfundo kanye nesimo sokunotha. Imizi ephethwe ngabantu abamhlophe (80,5%) kanye abangamaNdiya/abangabokudabuka e-Asia (73%) iyona mizi ngokwejwayelekile enamagumbi ayisithupha noma ngaphezulu kunemizi ephethwe ngamakhaladi (42,3%) noma ethethwe ngabantu abamnyama (34,7%).

Ithebula lesi-5

³⁶ Kwenziwa njalo ngonyaka Abezibalo e-SA



Ukukhubazeka

112. Emhlabeni wonke, abantu abaphila ngokukhubazeka bakhishiwe ekubambeni iqhaza emphakathini. Ngokocwaningo lwe-SAHRC, eNingizimu Afrika, abantu abaphila ngokukhubazeka babhekana ngezindlela ezahlukene zokucwaswa ezindaweni ezahlukene zomphakathi, okuhlanganisa nokukwazi ukuthola ukunakekelwa ngokwezempilo, ukuqashwa kanye nemfundo. Ngaphandle kwesibophezelo sokuhlanganiswa komphakathi kanye nokwamukelwa kwabantu abaphila ngokukhubazeka, ukulingana kwangempela ngeke kuzuzwe.³⁷
113. Ukubalwa kwabantu kwangonyaka ka-2011 kuveza ukuthi inani labantu abaphila ngokukhubazeka amaphesenti ayi-7,5%. Ukwahlukana kwezifundazwe kukhombisa ukuthi izifundazwe ze-Free State kanye ne-Northern Cape zinesilinganiso esikhulu sabantu abaphila ngokukhubazeka (11%), zilandelwe yizifundazwe i-North West kanye ne-Eastern Cape (10% kanye no-9% ngokulandelana). I-Western Cape kanye ne-Gauteng zaveza izilimnganiso ezincane zabantu abaphila ngokukhubazeka (5%). Iphrofayili yeqembu lomphakathi liveza ukuthi abantu abamnyama baseNingizimu Afrika banezinga eliphezulu labantu abaphila ngokukhubazeka (7,8%), belandelwa yiqembu lomphakathi wabantu abamhlophe (6,5%).
114. INingizimu Afrika yasayina futhi yaqinisekisa ukuthi i-CRPD kanye Nenqubo Yayo Yokuzikhethelela yonyaka ka-2007, futhi iphoqelekile ngaphansi kwalesi sivumelwano ukuthi ifezekise izibophezelo zayo ngokokuqalisa kanye nokubika. INingizimu Afrika isazothatha imihlinzeko ye-CRPD iyisebenzise ezweni.

Abantu abanebala elimhlophe

115. Ukucwasa ngenxa yokuba ngumuntu onebala elimhlophe sekutholwe uokukhulu ukunikwa engqikimbeni yomthetho waseNingizimu Afrika. Ngoba abantu abanebala elimhlophe bayidlanzana futhi bakhishiwe eqenjini lomphakathi, ukubacwasa akunakwa futhi akubikwa. Izinto zomphakathi ezahlukene kanye nezesimo sengqondo sinika isikhumba indlela esiyo

³⁷ South African Human Rights Commission, Research Brief on Disability and Equality in South Africa 2013 - 2017

manje. Emlandweni wase-Afrika, ukucwasa ngenxa yebala lesikhumba akukusha – uhlelo lokuba ncono kanye nokubandlulula lwasuselwa ekukhanyeni kwesikhumba noma ukuba mnyama kwesikhumba somuntu kubizwa ngamagama anjengo ‘khalarizimu’ ‘ishadizimu’ kanye ‘ukubandlulula ngokwesikhumba’ ‘i-phigimentokhrasi’ kanye ‘nokuhluka kombala’wesikhumba’. Noma yikuphi ukulebhelwa okusetshenziswa ukuchaza umbala wesikhumba somuntu kunezinkinga, futhi kungakgonjwa ekucwaseni, inkolelo kanye nemibono yobuhe, nakubantu bobuhlanga obubodwa. Ngokomuntu onebala elimhlophe, ibala labo lesikhumba lenza kube kube nemibono eyakhiwe ngumphakathi engemihle kubantu base-Afrika, okuhlanganisa inkolelo yokuthi baqalekisiwe. Kubalulekile ukwazi ukuthi ngoNovemba ka-2014, isiGungu Jikelele se-United Nations sathatha isinqumo sokwenza usuku lomhla ziyi-13 kuJuni njengosuku Lokuqwashisa Ngabantu Abantu Abanebala Elimhlophe Emhlabeni wonke. Umlando walesi sinqumo uqinisekisa ukugxila ekumeleni abantu abanebala elimhlophe. Umnyango Wezamaciko kanye Namasiko waqala umkhankaso wawo i- #AlbinismActivismCampaign mhla zizi-4 kuMeyi ka-2018.^{38 39}

³⁸ *Colour discrimination against persons with albinism in South Africa*, M Mswela & M Nöthling-Slabbert, Department of Jurisprudence, School of Law, University of South Africa, Pretoria, South Africa

³⁹ M Mswela & M Nöthling-Slabbert ⁴⁰ “Of cakes and race wars”, News24, 21 January 2018,

ISAPHLUKO SESI-5: ININGIZIMU AFRIKA NAMHLANJE

116. Asikwazi ukwena ngathi asisiboni isimo esishubile sobuhlanga esikhona eNingizimu Afrika esikhathini sanamhlanje. Njengokuba uMondli ebhala ethi:⁴⁰

“Esisona isizwe sethunga lwenkosazane esimtoti lesi ubhishobhi kanye noMongameli wokuqala weNingizimu Afrika “ekhululekile abeabefisa ukuthi kube yiso. Lama doda amabili ayefisa ukuthi sibe ngabantu abamele ifulegi.

Babefisa ukuthi sibe njalo, baze bakholwa ukuthi sesifikile lapho.

Ngokuzisola, awenele umsebenzi wokwakha umphakathi ongenabuhlanga, okwakuvele kuzothatha iminyaka engaphezu kwamashumi ukuthi kuze kulunge.

Sajabulela ukuzuthola umphakathi ongenabuhlanga ngaphandle kokubhekana nobunjalo besimo obuqhubekayo bomlando wethi kanye nokubhekana nohlelo lokuphola.

Manje sivuna esikutshalile. Sibuyela emuva.”

117. Inkantolo yoMthethosisekelo uyabona ukuthi:

“Umphakathi wase-Ningizimu Afrika wahlukene futhi eminyakeni engaphezu kwamashumi wehlukaniwe, ngokwemihetho kanye nenqubomigomo eqguquzela inzondo nokwesaba. Inkulumbo emele inzondo kanye nendlela ethile yokucabanga ngabanye abantu ngezinto abangeke bazishintsha ikakhulukazi elimaza ukuzuza kwala magugu njengokuba ibuyisa futhi iqhuba amaphethini okucwasa kanye nokungalingani”⁴¹

118. Noma kunjalo, iziganeko zenkulumbo yenzondo ziyenyuka eminyakeni , iziganekko ezingendala zobuhlanga, ukuzondwa kwabantu bokufika kanye/noma amanye amacala enzondo emaningi:

- Isibonelo, Umfundi webala elimnyama wanqatshelwa ukuthi adlale umdlalo wehokhi. Wanxena abazali bakhe ukuthi bamuse e-Hoërskool Grenswag kwakuzoba nemidlalo ye-Bokkie Week emuva kokuthi ethole imvume esuka kumqeqeshi wakhe. Konke kwabonakala ngathi kuhamba kahle uma bemvumela ukuthi abhalise emuva kokukhipha isitifiketi sakhe sokuzalwa kanye nokukhokha imali engango R30, kodwa emva kwalokho watshelwa ukuthi i-Bokkie Week eyezingane ezimhlophe kuphela.

⁴⁰ “Of cakes and race wars”, News24, 21 January 2018, <https://www.news24.com/Columnists/Mondli-Makhanya/mondli-makhanya-of-cakes-and-race-wars-20180121-3>

⁴¹ *Islamic Unity v Independent Broadcasting Authority and Others*, 2002 (4) SA 294 (CC) para 43.

- Izikhalazo ngothisha wase-Parkdene Primary School obesolwa ngokuhlukumeza Umfundi webanga lesithathu ngokuqoka kwakhe intambo ebomvu yamaHindu (Kavlava) esihlakaleni sakhe. Uthisha wamiswa ngesikhathi uMnyango Wezemfundo Eyisisekelo wenza uphenyo.
 - Umuntu ongowokudabuka eMozambique wabulawa ngonyaka ka-2015 emuva kokuthi efune ukuthi akhokhelwe ugwayi abafana abancane abawuthathe esitolo sabo ngesikhathi sodlame olubhekiswe kubantu abasuka kwamanye amazwe.
 - KuJanuwari ka-2017, imoskho yaseKapa, iNuru Islam yadwetshwa ngegazi kanye nomzimba wengulube. Umnakekeli kuthiwa wabiza amaphoyisa athumela imoto yamaphoyisa kodwa watshelwa ukuthi ngeke bakwazi ukuvula icala, kodwa bengasirekhoda isigameko.
 - Abantu batholwe benecala le-*crimen injuria* ngenxa yokubhala izinto ezicwasa ngobuhlanga emithonjeni yokuxhumana. Abezindaba
 - Icala lokushaywa komuntu omnyama afakwe ebhokisini lomncwabo langonyaka ka-2017 lenza kwaba nezimpikiswano, lapho indoda yebala elimnyama yafakwa ebhokisini lomncwabo ngamadoda amabili amhlophe ayezwakala kuvidiyo esabisa ngokuthi azofaka inyoka phakathi ebhokisini bese eyalishisa ngomlilo.
 - Icala elaziwa ngokuthi yi “*Coligny Sunflower case*” lapho abantu ababili bebala elimhlophe base-North West abasebenza eulazini, betholaka benecala lokubulala umfana oneminyaka eyi-16 omnyama ngokumphusha bamkhiphe emotweni ehambayo emuva kokuthi kusolakala ukuthi utholakale entshontsha ensimini yomqashi wabo.
 - Kunezigameko eziningi zokuhlaselwa kwabantu be-LGBTI, kanye nalokhu okwaziwa ngokuthi “ukudlwengula okulungisa ubulili” nakho sekwejwayelekile.
119. I-SA *Reconciliation Barometer Survey* (“SARB”): uMbiko wangonyaka ka-2017, owamukelwe Yisikhungo Sezobulungiswa kanye Nokubuyisana, uhlinzeke ulwazi olunzulu ngobuhlanga kanye nokubuyisana ezweni lethu. Ngokwe-SARB, abaphenduli ababamba iqhaza ocwaningweni lwe-SARB lwangonyaka ka-2017 bathi ngokwabo babona ushintsho oluncane emikhakheni yomphakathi.
120. Ku-*SEJA Baseline Survey*⁴² abaphenduli babuzwa ukuthi ngabe bacabanga ukuthi izimo ziba ncono eNingizimu frika, ziyafana noma zimbi kakhulu. Abacishe babe yisigamu (47%) babaphenduli bathi bacabanga ukuthi izinto zimbi ukudlula ngaphambilini, bese ikota yabo enye icabanga ukuthi ziyafana (27%) noma ziba ncono (26%). Bekungekho umehluko otheni phakathi kwabaphenduli besifazane kanye nabesilisa, umahluko phakathi kwezinhlanga udonsa amehlo. Abaphenduli bathathu kwabayishumi (29%) babantu abamnyama bathi

⁴² 2017

baabanga ukuthi izinto ziba ncono, njengokuba basho njalo nabantu ababili kwabayishumi abaphenduli abamhlophe. Abaphenduli abangamaNdiya/abangabase-Asia kanye nabangamakhiladi babenentshisekelo encane mayelana nekusasa lezwe. Cishe abaphenduli abangamakhiladi ababili kwabathathu (65%) kanye nabathathu kwabahlanu (62%) babaphenduli abangamaNdiya/abangabase-Asia bathi bacabanga ukuthi izinto zimbi kakhulu – lokhu bekuphambene nokushiwo yisigamu (53%) sabantu abamhlophe kanye nabantu abamnyama ababili kwabahlanu (43%).

121. Ocwaningweni olulodwa, ingxenye enkulu (44%) iyavuma ukuthi abantu abasuka kwamanye amazwe akumele bavunyelwe ukuthi bahlale eNingizimu Afrika. Cishe isigamu sabaphenduli abangabantu abamhlophe(48%) kanye namakhiladi (48%) bavumile ukuthi abantu abasuka kwamanye amazwe akumele bavunyelwe ukuthi bahlale kulelizwe njengokuba besho nabantu abamnyama abangamaphesenti angama-43 kanye namaphesenti angama-36 abantu abangamaNdiya/nabangabase-Asia. Amazinga aphezulu okungathembi abantu abasuka kwamanye amazwe – abasuka emazweni ase-Afrika kanye namazwe okungewona ase-Afrika- ukubiyisa indela yokucabanga kubantu abasuka kwamanye amazwe ababikwe ngenhla. Cishe abantu ababili kwabahlanu abantu abadala eNingizimu Afrika bathi ababathembi abantu abasuka kwamanye amazwe ase-Afrika (38%) noma laba abasuka emazweni okungewona ase-Afrika (38%).
122. Maqondana nolwazi loMthethosisekelo, abaphenduli abangabantu besilisa (55%) bebazi ngoMthethosisekelo noma uMqulu Wamalungelo kunabesifazane (47%). Maqondana nobuhlanga babaphenduli, abantu abamhlophe bebaningi (68%) asebezwe ngakho kokubili, belandelwa ngabaphenduli abangamaNdiya/abase-Asia (61%).
123. Lapho iningi (56%) lamakhiladi like lezwa ngoMthethosisekelo noma uMqulu Wamalungelo, abaphenduli abangabantu abamnyama abangaphansi kwesigamu (44%) abathi bezwa ngoMthethosisekelo noma uMqulu wamaLungelo.

ISAPHLUKO SESI-6: UKUBHEKANA NOBUHLANGA KANYE NOKUCWASA KANYE NOKUKHUTHAZA UKULINGANA – SESENZENI KUZE KUBE YIMANJE 124.

Izindlela eziningi ezithathwe yiNingizimu Afrika ukuhlangabezana nezibopho eziningi zomthethosisekelo kanye namalungelo abantu zibekiwe ngokwemininingwane yazo njengengxenywe yokubikwa kwezibopho zesivumelwano somhlaba wonke. INingizimu Afrika inohlaka oluqinile lomthetho wokulingana kanye nokungahambisani nokucwasa. Umthethosisekelo uthi uMbuso mawuhloniphe, uvikela, ukhuthaze kanye nokufeza amalungelo aseMqulwini Wamalungelo lapho umbuso unesibopho esiyisisekelo sokuqinisekisa ukuthi wonke umuntu uyakwazi ukusebenzisa amalungelo akhe. Maqondana nalokhu, uHulumeni waseNingizimu Afrika usuphasise imithetho eminingi enomthelela ezinjongweni zoMthethosisekelo zokuthi uzuze ukulingana, isithunzi sabantu kanye nokwenza ncono amalungelo abantu nenkululeko yabo.

Ukulingana kanye nokungacwasi

125. Ilungelo lokulingana kanye nokuvikelwa ekutheni ungacwaswa kuyinto uMthethosisekelo wethu okhuluma ngakho kakhulu. INingizimu Afrika isiqalise izingcezu ezahlukeni zomthetho ukuqeda ukucwasa kanye nokuqinisekisa ukulingana ezindaweni ezahlukeni, isb. maqondana nokulwa nokucwasa ngokuqasha, kune- *Employment Equity Act*, ka-1998.⁴³
126. Uhulumeni uphinde waphasisa i-*Ukukhuthaza of Equality and Ukuvimbela of Unfair Discrimination Act* (PEPUDA) evimbela ukucwasa okungenabo ubulungiswa ngenxa yobuhlanga, ubulili kanye nokukhubazeka. Umthetho uchaza inkulumbo yenzondo njengamagama ‘abonakalayo ukuthi akhiwe ukuzwisa ubuhlungu, ukulimaza noma ukukhuthaza inzondo ngenxa yobuhlanga, ubulili, ukukhulelwa, isimo somuntu kwezomshado, ubuzwe noma umphakathi umuntu adabuka kuwo, ibala, ubulili umuntu azifanisa noma afaniswa nabo, iminyaka, ukukhubazeka, inkolo, unembeza, inkolelo, isiko, ulimi noma ukuzalwa’. Le ncazelo ivuleleke kakhulu kunalena ehlinzekelwe kuMthethosisekelo kuleyo ihlanganisa zombili izinkulumbo ezibuhlungu kanye nezilimazayo, kanye nenkulumbo enenhloso, eyethula into esolisa ukuthi yincazelo.⁴⁴

⁴³ S 9(1) Wonke umuntu uyalingana ngaphambi komthetho futhi unelungelo lokuvikelwa kanye nokuzuza ngokulingana ngokomthetho.

(2) Ukulingana kuhlanganisa ukuthokozela okugcwele kwawo wonke amalungelo kanye nenkululeko. Ukukhuthaza ukuzwisa kokulingana, imithetho kanye nezinye izindlela ezenzelwe ukuvikela noma ukukhuthaza abantu, noma izinhlobo zabantu, abacwaswayo bengathathwa.

(3) Umbuso akumele sicwase ngokungenabulungiswa noma ubani ngenxa, yobuhlanga, ubulili, ukukhulelwa, isimo sakhe sokushada, ubuzwe, umbala, ubulili azifanisa noma afaniswa nabo, iminyaka, ukukhubazeka, inkolo, unembeza, inkolelo, isiko noma ukuzalwa.

(4) Akekho umuntu ongacwasa noma ubani ngenxa yezinto ezisesigatshaneni sesi-(3). Umthetho kazwelonke kumele uphunyeleliswe ukuvimbela ukucwasa okungalunganga.

(5) Ukucwasa ngenxa yezinto ezibalwe esigatshaneni sesi-(3) akulunganga ngaphandle uma kushiwo ukuthi ukucwasa kulungile.

⁴⁴ *Promotion of Equality and Prevention of Unfair Discrimination Act* wesi-4 ka-2000. <http://www.justice.gov.za/legislation/acts/2000-004.pdf>

127. I-*Ukukhuthaza of Equality and Ukuvimbela of Unfair Discrimination Act*, ka-2000⁴⁵ ihlinzeka uhlaka lokuqaliswa isigaba sesi-9 soMthethosisekelo. Maqondaba balokhu, uMthetho uhlinzekela ukuqokwa Kwezinkantolo Zokulingana. Inhloso yeziNkantolo Zokulingana ukulalela amacala amaqondana nokwephulwa kwelungelo lokulingana, ukucwasa okungenabulungiswa kanye nenkulumo yenzondo, ngombono wokuthi kuqedwe umoya ohlezi ukhona kahulumeni wobandlululo ohlukanise izwe ngokobuhlanga, ubulili kanye nangokuba nemali. Umthetho uyacacisa ukuthi zonke iziNkantolo Eziphakeme ziqokwe ukuthi zibe yiNkantolo Zokulingana, kodwa okubalulekile ukuthi zikwazi ukuthi zidlulise amandla okuthwesa amacala amaqondana namacala okulingana eziNkantolo Zikamantshi. Umnyango Wezobulungiswa uqoka iziNkantolo Zikamantshi njengezinegunya lokulalela amacala ezokulingana, emuva kokuthi abasemahhovisi kanye nabasebenzi bethola uqeqesho olufanele. Imithethozimiso Yezinkantolo Zokulingana yashicilelwa futhi, ngonyaka ka-2009, zonke Izinkantolo Zikamantshi zaqokwa njengeziNkantolo Zokulingana. Zonke Izinkantolo Eziphakeme zihlala nejengeziNkantolo Zokulingana. Lokhu sekwenze ncono ukukwazi ukuthola ubulungiswa njengokuba umphakathi manje ukwazi ukufaka izikhalazo zokucwasa okungenabulungiswa eNkantolo Kamantshi eseduze nawo. ukuqaliswa⁴⁶
128. Izixazululo eziningi ezikhona kulezi zinkantolo zenzelwe ukukhuthaza izindlela zamajaji eziwubuciko, ezingenamicikilisho ezizwelana nezimo zecala ngalinye kanye nezidingo kanye nezimfuno zababandakanyekayo. Kunemihlinzeko eminingi evumela ukuthi amacala alalelwe ngabantu, ababamele, ngokwezimfuno zomphakathi, noma inhlango emele izimfuno zamalunga ayo.
129. Abantu abadinga usizo lokuya Inkantolo Yokulingana ngokwejoyalekile basizwa umabhalane Wenkantolo Yokulingana noma Ikhomishana Yamalungelo Abantu eNingizimu Afrika noma Ikhomishana Yokulingana Ngokobulili, uma kunesidingo. Noma Inkantolo Yokulingana ilandela imithetho yokuhlala, imithetho kanye nenqubo akuqinile njengasezinkantolo ejoyalekile. Ukuze kuqale ukulalelwa kwamacala Enkantolo Yokulingana akubalulekile ukuthi umuntu abe nommeli. Izinkantolo Zokulingana zimahlala, lokhu okusho ukuthi umkhalazi akakhokhi lutho. Kube nokwehla ngamaphesenti ayi-14 amacala Asenkantolo Yokulingana abakwe phakathi kweminyaka 2015/16 kanye neminyaka 2016/17. Izibalo zakamuva zamacala Asenkantolo Yokulingana abikwe phakathi kuka-2017/18 ziveza okunye ukwehla okungamaphesenti angama-51 yenani selilonke lamacala abikiwe.⁴⁷
130. Izinkantolo zethu zinikezele ngamacala amaqondana nokulingana futhi zavimbela imithetho yokucwasa kanye nezenzo. isibonelo ku-*Prinsloo v Van der Linde*⁴⁸ inkantolo yakwazisa ukuthi-

“Izwe lethu linemiphakathi eyahlukene enomlando owehlukene kanye nezimo zokuhlala. Kuze kube yisikhathi esingesidala, izindawo eziningi zempilo zomphakathi kanye nezangasese zazihlaselwe ukwahlukaniswa ngokomthetho okwakuhambisana

⁴⁵ Act No. 4 of 2000

⁴⁶ *Government Notice No R764 of 13 June 2003 (Government Gazette 25065)*⁴⁷ *Department of Justice and Constitutional Development, Annual Report, 2017/2018, page 34.*

⁴⁷ *Department of Justice and Constitutional Development, Annual Report, 2017/2018, page 34.*

⁴⁸ 1997 (6) BCLR 759

*Nobuhle kanye nobubi. Umthelela wokungalingani okwakhiwa kusenathi noma sekubusa umthethosisekelo. Yiningi, elihlukumezekile ngenxa yemithetho yokuhlukaniswa kanye nobubi bakho*⁴⁹

131. Ku-*Minister of Finance v Van Heerden*⁵⁰ iNkantolo yabamba ukuthi uMthethosisekelo uyalazi iqiniso lokuthi asilingani ezweni lethu. Uma imithetho kanye nenqubomigomo iliphika leli qiniso kwenza nzima ukungalingani okuvele kukhona:

“Umthetho waleNkantolo uyakucacisa ukuthi ukutholakala kwelungelo lokulingana eligfanele kumele kunqunywe ukubuyekeza umlando wethu kanye namagugu oMthethosisekelo. Njengokuba sibonile ukuthi into ebaluleke kakhulu kuMthethosisekelo kungukwakha umphakathi olinganayo ongenakucwasa ngokobuhlanga kanye nangokobulili okwesekwa yisithunzi sabantu, ingalo yomthetho, umoya wenkululeko kanye namalungelo abantu. Kusukela lapho kuvela ukulingana okungaphezu kokulingana ngokomthetho kanye nokungacwaswa nje okudinga ukuphathwa ngendlela efanayo, noma ngabe kusukela kuphi noma kunamuphi umthelela.”

132. ku-*Minister of Home Affairs v Fourie* uSachs J wabamba ukuthi-

*“Umpakathi oluganayo wentando yeningi, owodwa, okhathalayo futhi onesifiso usingatha wonke umuntu futhi wamukela abantu njengokuba benjalo. Ukujezisa abantu ngenxa yobubona kungukungahloniphi Ubuntu kanye nokulimaza ukulingana. **Ukulingana kusho ukukhathazeka okulinganayo kanye nokuhlonipha noma kwehlukiwe. Akudingi ukususwa noma ukucindezela okwahlukana. Ukuhlonipha amalungelo abantu kudinga Ukuqinisekiswa kobuwena, hhayi ukuziphika. Ngalokho ukulingana akusho ukulinganisa noma ukwenza kufane ukuziphatha noma ukuncoma ukuthi okunye kube ngaphezulu, bese okunye kube phansi, kodwa kungukwazisa kanye nokwamukela ukwahlukana. Kuqinisekisa ukuthi ukwahlukana akumele kube ngenxa yokwahlukaniswa, ukukhishwa noma isisila. Kuphinde kuthokozele ukuqina kwanoma yimuphi umphakathi okwenziwa**”*⁵¹

133. Ku-*Minister of Home Affairs and Others v Watchenuka* inkantolo yakwazisa ukuthi isithunzi yinto ekhona njalo kubo bonke abantu akukhathalelekile ukuthi owakuphi izwe umuntu -

*“Isithunzi somuntu asinakho ukuthi usuka kuliphi izwe. Sikhona kuwo bonke abantu – izakhamuzi kanye nabangezona izakhamuzi ngokufana – ngenxa yokuthi bangabantu. Futhi lapho loyo muntu ekulelizwe – nganoma iyiphi inhloso – kumele ahlonishwe, futhi avikelwe, yisigaba se-10 soMqulu Wamalungelo”*⁵²

⁴⁹ Par 20

⁵⁰ 2004 (11) BCLR 1125 (CC)

⁵¹ Para 60

⁵² Minister of Home Affairs and Others v Watchenuka and Others 2004 (4) SA 326 (SCA)

134. Futhi, ukujaja kwezinkantolo zethu ziyaqhubeka zenziwe zaba yinqubomigomo kaHulumeni ukuqinisekisa ukuqiniswa kwesiko lamalungeno abantu kulelizwe.

Amacala enzondo kanye nenkulumo yenzondo

135. Amacala enzondo angamacala ento omunye ayiyo, angaqondiswa kuphela entweni isisulu esiyiyo kodwa iqembu esiyilo. Ngalokho isisulu singuphawu lweqembu labantu abathile. Noma amacala enzondo engaqondiswa kunoma ngubani, amaqembu abantu abangathathwa ngokuthi babalulekile okwejoyalekile ukuthi kuqondiswe kubo. Sesiphila emhlabeni oya ngokuya ugxila kulokhu kwahlukana, emhlabeni ongakubekezeleli lokhu. Abukho ubuncane bamacala enzondo noma inkulumo yenzondo emphakathini wethu. Ecaleni lika-*SAHRC v Qwelane*, iNkantolo Yokulingana yathi inkululeko yokukhuluma ngeke ivikele inkulumo elimazayo kumagugu omthethosisekelo kanye namalungelo abantu, futhi eyenza kungabi lula ukuhlalisana kwabantu.⁵³
136. INingizimu Afrika inemithetho eminingi ebhekana nokucwasa, njenge-*Ukukhuthaza of Equality and Ukuvimbela of Unfair Discrimination Act* (PEPUDA) kanye nesigaba sesi-9 kuMthethosisekelo, kodwa akukho nokukodwa kulokhu okwakhelwe ukubhekana namacala enzondo. U-PEPUDA ubhekana nenkulumo yenzondo, ukucwasa okungenabulungiswa kanye nokuhlukunyezwa. Igama “icala lenzondo” alikho ndawo eMthethweni.
137. kubalulekile ukubhaka ukuthi e-PEPUDA yazisa ukuthi ukucwasa okungenabulungiswa kanye nenkulumo **kungaba** ngamacala futhi kumele kuthathwe njengento eyenza icala libe nzimangezinhloso zokugweba. Kodwa lokhu akubhekani namacala enzondo ngamanye, njengokuba kwenza ekuhlukunyezweni, ekucwaseni kanye nenkulumo yenzondo. I-PEPUDA inobunye ubuthaka ngokuthi ibheke kakhulu (esigabeni sama-28(1)) ekucwasweni ngenxa yobuhlanga, ukukhubazeka kanye nobulili kodwa ayifaki ubuzwe noma ubulili umuntu azifanisa noma afaniswa nabo. Ngalokho i-PEPUDA yakha “indlela entsha yokuzonda” ngokwenza ukuthi ukucwasa okuthile kubaluleke kakhulu kunokunye. Obunye ubuthaka be-PEPUDA ukuthi akugcizelelwa ekutheni kutholakale isizathu.
138. kune-*Ukuvimbela and Combating of Hate Crimes and Hate Speech Bill*, osubekwe Phalamende. UMthethosivivinywa umaqondana nezincomo eziqukethwe ohlakeni lenqubomigomo eyenziwa. Ukwenza umthetho oqondene namacala enzondo kuzoba nezinto ezinhle eziningi. Kuzosiza ukuthi kwakhe incazelo yecala lenzondo kubo bonke laba abayingxenywe yezobulungiswa bobugebengu; kuzothumela umlayezo ocacile emphakathini ukuthi amacala enzondo ngeke abekezwelelwe eNingizimu Afrika; kuzohlinzeka amathuluzi engeziwe kubaphenyi kanye nebashushisi ukujezisa abantu abenze amacala enzondo; kuzohlinzeka ngezindlela zokuqapha imizamo kanye nezinto ezidumile zokubhekana necala lenzondo; kuzovumela ukusebenzisana okunomthelela phakathi kwabasebenzi bakahulumeni ukwehlisa umthelela wokuphinde kwenziwe izisulu ezisulwini zenkulumo yenzondo. Ukuphinda kwenziwe izisulu kwenzeka lapho izisulu ziphinde zibhekana

⁵³ *SAHRC v Qwelane* case no EQ44/2009 (EQ13/2012) EQC (18 August 2017)

nokuziphatha okungenazwelo noma okungalungile noma amagama ashiwo ngamaphoyisa, abezempilo noma izikhulu zezobulungiswa.

Ukuzondwa kwabantu bokufika

139. Emuva kwezigameko zangonyaka ka-2015 zodlame olubhekiswe kubantu bokufika, isu likaHulumeni, ngokusebenzisana namagatsha ahlukene omphakathi womthetho usebenza ekunqandeni lokhu, kwakuvezwe ohlelweni olubheka zonke izindlela kanye noluhlanganisiwe. Imizamo kaHulumeni yenziwa emazingeni aphezulu kakhulu, kwamanye, Yikomidi loNgqongqoshe asemqoka amathathu (IMC). Le IMC –yiKomidi loNgqongqoshe (IMC) Kwezokufuduka, i-IMC Kwezokuhlangana Komphakathi kanye ne-IMC Kwezenqubomgomo Yomphakathi. Igunya le-IMC Yezokufuduka yandlalwa ukuthi iphinde ibhekane nezizathu zokungezwani phakathi kwemiphakathi kanye nabantu abasuka kwamanye amazwe. Umphakathi womthetho
140. Ezinye zezinto okubhekanwa nazo maqondana nalokhu, ukubuyekizwa kokuqaliswa kwenqubomigomo Yezemisebenzi njengokuba zithinta abantu abavela kwamanye mazwe. Ukuqaliswa kwemithetho eyengamele izimvume zamabhizinisi; ukuphathwa kwemincele yezwe kanye nenqubomigomo jikelele yofuduko ezweni. Lokhu kungumsebenzi ongeke wenziwe esikhathini esifushane futhi i-IMC isiqalise izingxoxo nabathintekayo ukuze ikwazi ukuthola isisombululo eside ezintweni eziphakanyisiwe yimiphakathi kanye nabantu bokufika. Maqondana nokusebenza kwe-IMC i-*National Joint Operational and Intelligence Structure* (NATJOINTS) okunguhlaka oluhlanganisa impendulo kahulumeni ezintweni eziphuthuma njengalezi, luyasebenza. Ukwengeza, Ikomidi Loxhwepheshe elihlanganisa Abaqondisi-Jikelele bayo yonke iminyango ethintekayo, luhlinzeka ukweseka okubalulekile emsebenzini onzulu okumele wenziwe ekubhekaneni nezimbangela zalokhu kungezwani. Lezo zonhlaka ezimbili zihlinzeke ukweseka okudingekayo ku-IMC.
141. Kumele kwaziwe ukuthi ngengxenye yomsebenzi we-IMC, uMongameli usehlanganise imihlangano yababambi benqaza eNingizimu Afrika ukudingida inqubomgomo yezwe yofuduko kanye nokudingida ukuthi imikhakha eyahlukene ingasebenza kanjani nohulumeni ukukhuthaza ufuduko oluhlelekile kanye nokuzwana phakathi kwezakhamuzi kanye nabantu bokufika. Imihlangano ihanjelwa abezamabhizinisi, abezemidlalo, izinhlangano zezabasebenzi, ochwepheshe bezamaciko kanye nezemidlalo, abaholi bezenkolo, abasuka emphakathini, yintsha, yizingane, abantu abaphila ngokukhubazeka kanye nabaholi bendabuko. Ababambi beqhaza babevumelana ngokungahambisani kanye nokungavumelani nokuhlaselwa kwabantu bokufika. Baphinda bathembisa ukuzibophezela ekusebenzeni emiphakathini yabo ukwakha ubumbano emphakathini. Ukwengeza, uMongameli waphinda wamema abamele abantu bokufika abahlala eNingizimu Afrika. Bonke ababambi beqhaza bavumelana ekwazzeni kanye nokuncoma iizamo kahulumeni ukuqeda ukuhlasela. Bazibophezela ngokusebenzisana ndawonye neziphathimandla zaseNingizimu Afrika ukubhekana nezinqinamba. Kubalulekile Ukuveza ukuthi uhulumeni uqale izinhlelo azilwisana nenzondo yabantu bokufika kanye nemikhankaso yobumbano lomphakathi ezikoleni.

142. Ezinye zezenzo ezenziwa ukungenelela kwe-JCPS kuhlenganisa lokhu okulandelayo:

- Amaphoyisa asenze kwaba yinto ebalulekile ukuphenywa kwalamacala kanye ngokusebenzisana Nophiko Lwezokushushisa Kuzwelonke (“NPA”) kanye nezinkantolo maqondana nokubhekana namacala anjalo – ikakhulukazi lapho abantu abaningi beboshiwe. I-NPA seyenze icebo umakwenzeka zenzeka izigameko lokuphatha kanye nokubhekana namacala ngempumelelo kanye nangokushesha. Ukwengeza, Usekela Mqondisi Wezokushushiswa Komphakathi, Abashushisi Abakhulu, Abashushisi Abaphezulu kanye Nabashushisi Abalawulayo banikwa umsebenzi wokuthi baqaphe, bashushise futhi banikeze umhlahlandlela ophenyweni lwamaphoyisa. Abashushisi benziwa ukuthi babe nozwelo futhi banikwa imihlahlandlela efanele yokubhekana namacala anjalo. Lapho kunesidingo, amaseshini enkantolo aqaliswa ukusiza kubekwe phambili lamacala uma esevele equkwa.
- Ukuqapha amacala asuka e=odlameni olunjalo kanye nokuhambisa phambili uphenyo lwabo kanye ngokuqhubeka kokuqulwa. Ukwengeza, i-DOJCD, i-SAPS kanye ne-NPA basohlelweni lokubuyekeza amacala ahoxisiwe, avaluwe njengangabonakali kanye nalapho abantu batholwa bengenacala ngenxa yobuchwepheshe, ukubhekana nokwehluleka kanye nokuvala amageba aveziwe. I-NPA iphinde yenza imihlahlandlela yabashushisi emacaleni anjena futhi lokhu kwabelanwa ngakho nababnye ababambe iqhaza, ikakhulukazi i-SAPS. Imikhankaso yemiphakathi yaqaliswa ukukhuthaza ezobulungiswa kanye nokufundisa abantu ngamalungelo abantu bonke. I-DOJCD yaba nemicimbi eminingi yemiphakathi emazingeni aphezulu Ukuveza ukuzibophezela kukahulumeni ekuvikelweni amalungelo abantu. Imicimbi yomphakathi ebanjwe yi-DOJCD yayigxile, kokunye kwazo, uMqulu Wamalungelo, Ukuzondwa kwabantu bokufika kanye Nokulingana.
- Iziphathimandla Zophiko Lwezokusushisa Kuzwelonke (NPA) ezifundazweni zazigqugquzelwa ukuthi zibambe iqhaza ezingxoxweni ezihlelwe yi-SAHRC ngombono wokufundisa ezintweni ezenza ukuthi abantu bokufika bashiye amazwe abo kanye nomthelela wabo emnothweni walelozwe. Ekuphikisaneni nebheyili, lapho kudingeka khona, abashushisi benza inkantolo ibone ukuthi kungenzeka ukuthi kube nokusatshiswa kofakazi noma abamangali, kanye nomthelela omkhulu wakho ebulungisweni kanye nengalo yomthetho.
- Igatsha: Izinsiza Zasekantolo e-DOJCD zithole zaphinda zagcina uhlu labahumushi bezilimi zabantu bokufika ukuze basize ngokuhumusha lapho kudingeka maqondana nezinto ezithinra abantu bokufika. Timininingwaneulwazi olugciniwe

143. Izincomo zaphinde zenziwa uMbiko wKomidi Elihlangene lePhalamende Elibheka Udlame Olubhekiswe Kubantu Bokufika kanye Neqembu Elisemqoka Lenkomba Lezofuduko kanye Nokuhlangana Komphakathi e-KZN, usihlalo kwakunguNavi Pillay. I-SAHRC Yenza Uphenyo Lokuqulwa Kwamacala Kuzwelonke Kwezofuduko, Ukuzondwa Kwabantu Bokufika kanye Nobumbano Lomphakathi. Inhloso yaloluphenyo lokuqulwa kwamacala kwakungukuhloma imibuzo ububi babafuduki eNingizimu Afrika

- Imbangela kanye nezinto ezenza kube khona ninzondo yabantu bokufika kanye nokungabekezelelani okunjalo; ukuzonda abantu bokufika kanye nokungabekezelelani okufanayo
- Ububanzi bokuzondwa kwabantu bokufika kanye nokungabekezelelani ezweni;
- Ezinye ezinto ezimaqondana nokuphathwa kwabantu bokufika kulelizwe, okuhlanganisa nezinsalelo abokufika ababhekana nazo ekuhlalisaneni omphakathi;
- Ububanzi bokuzondwa kwabantu bokufika ngokugxila ekuphenyeni ngezinqinamba abafuduki ababhekana nazo ekutholeni amaphepha afanele;
- Ukukwazi ukuthola izinsiza zokwesekwa kanye neziyisisekelo;
- Izenzo zokuqashwa ezingezinhle futhi ezilimazayo lapho amaqembu abuthaka anjengabafuduki bebhekana nokucwaswa kwabantu bokufika;
- Ububanzi bokuqaliswa kwezincwadi zangaphambilini, ikakhulukazi izincwadi zombiko wekhomishana ka-2010, kanye nokuhlolwa kwezindlela ezathathwa emuva kodlame olubhekiswe kubantu bokufika lonyaka ka-2015 ukukhuthaza ukuhlangana komphakathi kwabantu bokufika kanye nemiphakathi;
- ukuhambisana kwendawo yomthetho kanye neyenqubomgomo esuselwa kwezamalungelo, kanye nomthelela wayo emalungelweni abafuduki;
- umcabango kanye nokuqaliswa komthetho kanye nenqumgomo ehlongoziwe yezichibiyelo zokulawula kanye nomthelela wazo ekuqhubeni ukucwaswa kwabantu bokufika;
- ukwakhiwa kanye nendima edlalwa umthetho wamacala enzondo kanye Nohlelo Lokusebenza Lukazwelonke lokulwa Nobuhlanga, Ukucwasa Ngobuhlanga, Ukuzonda Abantu Bokufika kanye Nokungabekezelelani Okufanayo, okuhlanganisa indlela ongaba nomthelela ngakhona kanye/noma ubambe iqhaza ezinyathelweni zokulwisana nenzondo yabantubokufika; Ukucwasa ngobuhlangaUkuzonda abantu bokufika kanye nokungabekezelelani okufanayo
- iqhaza labezindaba kanye nabantu abadumile ekuqhubeni noma ekulwisaneni nokucwaswa okumaqondana nezofuduko; kanye Abezindaba
- nezinsalelo esibhekana nabafuduki ekuhlanganeni nomphakathi waseNingizimu Afrika kanye ngezindlela ezingathathwa ukukhuthaza ubumbano lomphakathi.

Abantu be-LGBTI

144. Ukusungulwa Kweqembu Elisebenzayo yi-DOJCD ngonyaka ka-2011 kwakuqonde ukulwisana ngokuqhubeka kokucwasa ngenxa yobulili umuntu azifanisa noma afaniswa nabo noma ubulili umuntu azikhethile bona okubhekiswe emalungeni omphakathi we-LGBTI. I-DOJCD yasungula Uhlelo Lukazwelonke Lwe-LGBTI oluvumela ukuzibophezela kukahulumeni kanye nezinkomba ezikhishiwe Zesu Lokungenelela Likazwelonke ukubhekana nodlame ngenxa yobulili, ubulili umuntu azifanisa noma afaniswa nabo kanye nezinkomba zeQembu eliphendulayo ukusheshisa amacala kwezobulungiswa.
145. Ngonyaka ka-2012 ekuhambiseni kwawo Umbiko Wayo Kazwelonke Endleleni Eyodwa Yesikhati yomkhandlu wamalungelo abantu we-United Nations, iNingizimu Afrika yanconywa yilunga Lamazwe e-UN ngokuzibophezela kumalungelo abantu kanye nokwenza ncono izimpilo zezakhamizi zayo, ukuhlinzeka ngezidingo-ngqangi njengezindlu, ezempilo kanye nemfundo kanye neqhaza leNingizimu Afrika lokuhola Emkhandlwini Wamalungelo

Abantu ku-United Nations, ikakhulukazi maqondana nabesifazane abathandana nabanye besifazane, abesilisa abathandana nabanye abesilisa, abathandana nobulili bobubili kanye nabantu abangebona ubulili obubaliwe (LGBTI). Ngokulingana, iNingizimu Afrika yakhuthazwa ukuthi yenze izindlela zokubhekana nodlame olubhekiswe kubantu be-LGBTI.

146. Ngesikhathi i-NTT yaqaliswa futhi ngoMeyi ngonyaka ka-2013, u-DOJCD ehlangene nabamele izikhungo zesigaba sesi-9 kanye nezinhlangano zomthetho, njengeNhlangothi Yamalungelo Ehhovisi lomabhalane, wahlela ukuzuza imisebenzi enzima kakhulu. Lokhu kwakuhlanganisa, kokunye, ukwenza Isu Lokungenelela Likazwelonke ukuphendula, kanye nokuvimbela, amacala obulili kanye nobulili umuntu azifanisa noma afaniswa nabo oluqhubekayo kubantu be-LGBTI kanye nokwenza Uhlelo Lokusebezisana oluzoxhumanisa izinyathelo ezibhekene kanye nezihambisanayo, ngaphakathi kanye nangaphandle Ku-DOJCD njengokwenziwa okwenzeka manje koMthethosivivinywa Wamacala Enzondo kanye Nohlaka Lenqubomgomo, kanye Neforamu Eqapha Amacala Enzondo kanye Nokubandlulula. I-NTT yazibophezela ukuthi iqinise amandla kahulumeni okuphendula izidingo ze-LGBTI kanye nokuqinisa amandla ama-CSO ukuthi ahlinzeke ngezinsiza ezifanayo. Izikhungo zesahluko sesi-9Umphakathi womthetho
147. Ihlele ukwenza ncono ukuxhumana neminye iminyango kahulumeni, ukwenza izinhlelo phakathi ku-DOJCD, njengeMalungelo oMthethosisekelo Okukwazi Ukuthola Ubulungiswa, izinhlelo ze-SEJA ezikhona njengamanje kanye ngokusebenzisana eduzane nezikhungo zesigaba sesi-9 ezifanele – njengeKhomishna Yamalungelo Abantu kanye neKhomishana Yokulingana Ngokobulili – ukulwisana nobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo futhi ngaleyo ndlela ibhekane nomthelela ezinhlobo ezahlukene zokucwasa okubhekiswe kubantu be-LGBTI. Ifuna ukwenza ncono ukuphathwa kwamacala ngabambi beqhaza abafanele kwezobulungiswa, okuhlanganisa Ezamaphoyi eNingizimu Afrika, Uphiko Lwezokushushisa Kuzwelonke, uMnyango Wezokuthuthukiswa Komphakathi, uMnyango Wezempilo kanye noMnyango Wezokuhlunyelelisa Kwezimilo. Okokugcina ihlose ukuqalisa, okwenza, ukuqapha kanye nokuhlola Isu Lokungenelela Likazwelonke kanye nezinye izinjongo.
148. Inqokela phambili enkulu yenziwe ukuhlangabezana nalezi zinjongo. Kuyimanje Isu Lokungenelela Kuzwelonke, elihlose ukuvimbela kanye nokuphendula odlameni ngenxa yobulili kanye nobulili umuntu azifanisa noma afaniswa nabo, luqediwe futhi luqalisiwe. Uhlelo Lokuqalisa Ukubambisana Lwesu luqediwe. Ithimba Lokuphendula linenqubekela phambili emacaleni amasha kanye nangakapheli kwezobulungiswa, lapho amathimba okubambisana ezifundazwe eqalisiwe kuzo zonke izifundazwe, ngalokho kwenzeka ncono futhi kuqina udaba lokumeleleka kanye nokubamba iqhaza ku-NTT kanye ngezinyathelo zokufundisa umphakathi eziqalisiwe. Ukuqinisekisa ukulingana kwabo bonke abantu kusho ukuthi kumele siphendule ngokuzimisela Ezigamekweni zokucwasa kanye namacala enziwayo kubantu be-LGBTI, NGOKUSEBENZISA IZINDLELA EZIBEKWE KU-ntt. Ukwengeza, kumele seseke ngokuhlanganyela izinhlelo zokufundiswa kanye nokuqeqeshwa komphakathi ezibeku-NTT.

149. INingizimu Afrika icishe ibe nezakhamuzi zendabuko eziyi-320 00, okuhlanganisa abantu abangama-San—!Xun, Khwe, kanye ne-Khomani — imiphakathi ye-Nama, izinhlangano ze-Griqua kanye nezizukulwana ze-Koranna, kanye “nemvuselelo yama-Khoisan,” ngokuhlanganyela abizwa ngama-Khoisan. Ngonyaka ka-1996, uhulumeni omusha wentando yeningi okhethiwe wathatha izinyathelo zokwazisa amalungelo amalungelo abantu abangama-Khoisan. Esihlokweni sesi-6 soMthethosisekelo, idinga ukuthi Ibhodi Lezilimi zaseNingizimu Afrika (PanSALB) ukukhuthaza ukuthi kungaba yizilimi eziyi shumi nanye ezisemthethweni, kodwa nolimi ‘Iwe Khoi, Nama kanye nezilimi zama-San’. I-PanSALB yenza Ibhodi Lezilimi Likazwelonke lama-Khoi kanye nama-San.
150. Emuva kokhetho lwentando yeningi lokuqala ngonyaka ka-1994, futhi njengengxenywe yamasu okwazisa abantu abangamaKhoi-San, kwasungulwa Iforamu kaZwelonke yama-Griqua. Leli gatsha liphakamisa ukuthi kusungulwe igatsha lukazwelonke ukumela imiphakathi yamaKhoi-San eNingizimu Afrika elizosebenza njengegatsha elilodwa uHulumeni azoxoxisana nalo ngezindaba ezimaqondana namaKhoi-San. Mhla zingama-27 kuMeyi ka-1997 igatsha elingekho emthethweni elaziwa njengomkhandlu kaZwelonke wamaKhoi-San lasungulwa.
151. Uhulumeni uyaqhubeka nokusebenza ukusebenza kanye nokweseka uMkhandlu kaZwelonke wamaKhoi-San (NKC) kanye nokuweseka, osebenza njengegatsha elilodwa uhulumeni axoxisane nalo ngezindaba ezithinta amaKhoi-San. I-NKC iqukethe amalunga angama-30 amele amaqembu asemqoka ayisihlanu omphakathi wamaKhoi-San (Griqua, San, Cape Khoi, Koranna kanye ne-Nama). Babambe iqhaza ekwenzeni i-*Traditional and Khoi-San Leadership Bill* (TKLB) ophasiswe kungekudala yisiGungu sikaZwelonke kanye noMkhandlu kaZwelonke Wezifundazwe. Umthetho uzohlinzeka ukwaziswa ngumthetho kwabaholi bamaSan kanye nemiphakathi yabo. UMthethosisekelo ubeka okukhulu ukubaluleka emigomeni “yokubumbana” kanye “nokuhlukahlukana”. Unezinto ezithile ezazisa ilungelo lemiphakathi (noma abantu bendabuko) lokwenza izinto zabo zesiko, zolimi kanye nenkolo.
152. INingizimu Afrika iqalise futhi yakhokhela izinyathelo ezenzekayo futhi ezibalulekile zezinhlelo zezemfundo, zezomnotho kanye nesayensi zokuvikela kanye nokukhuthaza abantu bendabuko. Olwaziwa njengohlelo lolwazi lwendabuko, lolu hlelo luhlanganisa imiphakathi yendabuko, amanyuvesi, izikhungo zocwaningo kanye nabalingani bezomnotho futhi ithokozela ukwesekwa nguhulumeni. Ihhovisi Lwezinhlelo Lolwazi Lwendabuko Lomnyango Wezesayensi kanye Nobuchwepheshe (NIKSO) seluthole ukwaziwa emhlabeni wonke ngokwenza ushintsho ekwenzeni ncono izinhlelo zolwazi lwendabuko ezweni.
153. I-SAHRC ithe lokho kwaziwa kumele kunikwe ngenxa yokuthi iNingizimu Afrika yenze inzindlela zenqubekela phambili maqondana nokuvikelwa kwamalungelo abantu bendabuko, okuhlanganisa ukusungulwa kwamagatsha ehlukenene kanye nezikhungo kanye nokuqaliswa kwemithetho eyahlukene kanye nenqubomigomo eqonde ukuvimbela ukucwaswa okungenabulungiswa kanye nokuvikelwa kwamalungelo abantu bendabuko. Lokhu kuhlanganisa, i-*inter alia*, inqwaba yemithetho ihlose ukuvikelwa amalungelo ezinhlelo zolwazi lwabantu bendabuko kanye nezinhlelo zokubuyisela umhlaba.

Ukucwasa ngobuhlanga kanye nobandlululo okwejwayelekile kanye nemithombo yokuxhumana

154. Ukucwasa ngobuhlanga kuyaqhubeka nokuziveza emithonjeni yokuxhumana eNingizimu Afrika, nayo enengcindezi yokukhula kwemithombo yokuxhumana. Imithombo yokuxhumana, kwezinye izikhathi, isiphenduke umthombo wokucwasa ngokobuhlanga ngendlela engalawuleki. Ukwengeza, imibango yobuhlanga ivela empini yamagama phakathi kochwepheshe bezokusakaza bona. Ezokusakaza kanye nezinye izindlela zokuxhuma komphakathi, njenge-inthanethi kanye nemithombo yokuxhumana, kudlala indima enkulu ekuvumeleni ukukhuluma ngokukhululeka kanye nokubona ukulingana. Kodwa lapho ukukhuluma ngokukhululeka kanye nenkululeko yenkolo noma inkolelo kuncike futhi kugcizelela ukuthi, inkululeko yokukhuluma akumele ibe ithinte ilungelo lesithunzi. Ngokuphambene, ukukhula kakhulu kobuchwepheshe bokuxhumana kanye nolwazi, obungakaze bube khona, sekuvumele ukwanda kwenkulumo ecwasa ngokobuhlanga kanye nokuzonda abantu bokufika okungenza ukuthi kuqale inzondo kanye nodlame lobuhlanga. Abezindaba
155. Ekuphenduleni ekukhuleni kobuthaka kwezisulu zamacala e-inthanethi, iNingizimu Afrika iqalise amasu amaningi kanye nokungenelela okuhlanganisa i-*National Cyber Security Policy Framework* (NCPF) ngonyaka ka-2012. Izindaba zokucwasa ngobuhlanga kanye nenzondo yobuhlanga ku-inthanethi kanye nezinkundla zokuxhumana kukhulunywa ngazo emthethweni ukulwisana namacala e-inthanethi kanye nezindaba ezifanayo. Lokhu kuhambisana Nesivumelwano Sohlaka se-*African Union* ekuqalisweni kohlaka lomthetho olwethembekile lokuqapha i-inthanethi e-Afrika. Ludinga ukuthi amazwe aqinisekisa Isivumelwano sokuhatha umthetho owenza ukuthi kube yicala ukusabalalisa izinto zezicwasa ngobuhlanga kanye nenzondo yibzntu bokufika. Umthetho uqukethe ukungavunyelwa kanye nokusabalaliswa kwezinto ezicwasa ngokobuhlanga kanye nenzondo yabantu bokufika ngekhompyutha kanye neziko lokuxhumana kanye nokukhuthaza udlame olubhekiswe kumuntu noma iqembu labantu ngendlela efanayo. Abezindaba
156. I-*Cybercrimes Bill*⁵⁴ ayinayo imihlinzeko eqondene nobuhlanga, ukucwasa ngokobuhlanga, ukuzondwa kwabantu bokufika (kanye nokungabekezelelani okufanayo), njengoba i-ukucwasa ngobuhlanga *Ukuvimbela and Combating of Hate Crimes and Hate Speech Bill* (ka-2018) manje ubhekana nalamacala. I-*Hate Crimes and Hate Speech Bill* uqukethe izincazelo eziqondene nokushicilelwa, ukusakaza unkoleloze noma ukumela noma ukuxhumana kwezinto zenkulumo yenzondo endaweni yokuxhumana.
157. Okunye maqondana nemithombo yokuxhumana, amagama esigaba sesi-4(1)(a) abeka izinto ezenza icala lenkulumo yenzondo. Ngokwemigomo yesigaba sesi-4(1)(b) soMthethosivivinyo, kuyicala ukwandisa noma ukwenza ukuthi izinto zenkulumo eyinzondo zibe khona ngamabomu ngendlela yokuxhumana yobuchwepheshe, okubalwa, i-inthanethi. Isigaba sesi-4(1)(c) sihlENZEKE ukuthi noma yimuphi umuntu ngenhloso, nganoma iyiphi indlela, oveza izinto noma owenza izinto zibe khona ezinenkulumo yenzondo, etholwa, noma eqondiswe, kumuntu othile ongathathwa njengesizulu senkulumo yenzondo, unecala.
158. I-*Ukuvikela from Harassment Act*, ka-2011⁵⁵ uhlinzeka izisulu zokuhlunyezwa ngezisombululo ezisebenzayo zokuziphatha ngalendlela futhi wethula izindlela ezifuna ukuvumela

⁵⁴ uMthethosivivinyo wesi-6 ka-2017

⁵⁵ uMthetho No 17 ka-2011

amagatsha ombuso afanele ukunika amandla imihlinzeko yoMthetho. Ngokwemigomo yoMthetho , incazelo “yokuhlukumeza”ehlinzekiwe esigabeni soku-1 ihlanganisa ukuhlanganyela nqo noma nganhlanye esenzweni ummangalelwa aziyo noma kumele ngabe uyazi ukuthi (a) kubanga ubuhlungu noma kukhuthaza inkolelo efanele yokuthi ingazwisa ubuhlungu kummangali noma umuntu ofanele ngokungenasidingo (ii) ngokuhlanganyela ngomlomo, ngobuchwepheshe noma nganoma yikuphi okunye ukuxhumana okubhekiswe kummangali noma umuntu ofanele, nganoma iyiphi indlela, noma ngabe ingxoxo iyaqhubeka noma cha; noma (ii) Ukuthumela, ukuhambisa noma ukwenza kuhanjiswa imeyili yobuchwepheshe. Ukucasula amantu ezinkundleni zokuxhumana, ukuhlumeza abantu ezinkundleni zokuxhumana kanye nochuku lwasezinkundleni zokuxhumana kunezinselelo zakho.

ISAPHLUKO SESI-7: Uhlalo lweNingizimu Afrika Lokusebenza Lukazwelonke lokulwa Nobuhlanga, Ukucwasa Ngobuhlanga, Ukuzondwa kwabantu bokufika kanye Nokungabekezelelani Okufanayo Ukucwasa ngobuhlanga

Ububanzi bukazwelonke: Indima yababambi beqhaza abamqoka ekulwisaneni Nobuhlanga, Ukucwasa Ngobuhlanga, Ukuzondwa kwabantu bokufika kanye Nokungabekezelelani Okufanayo

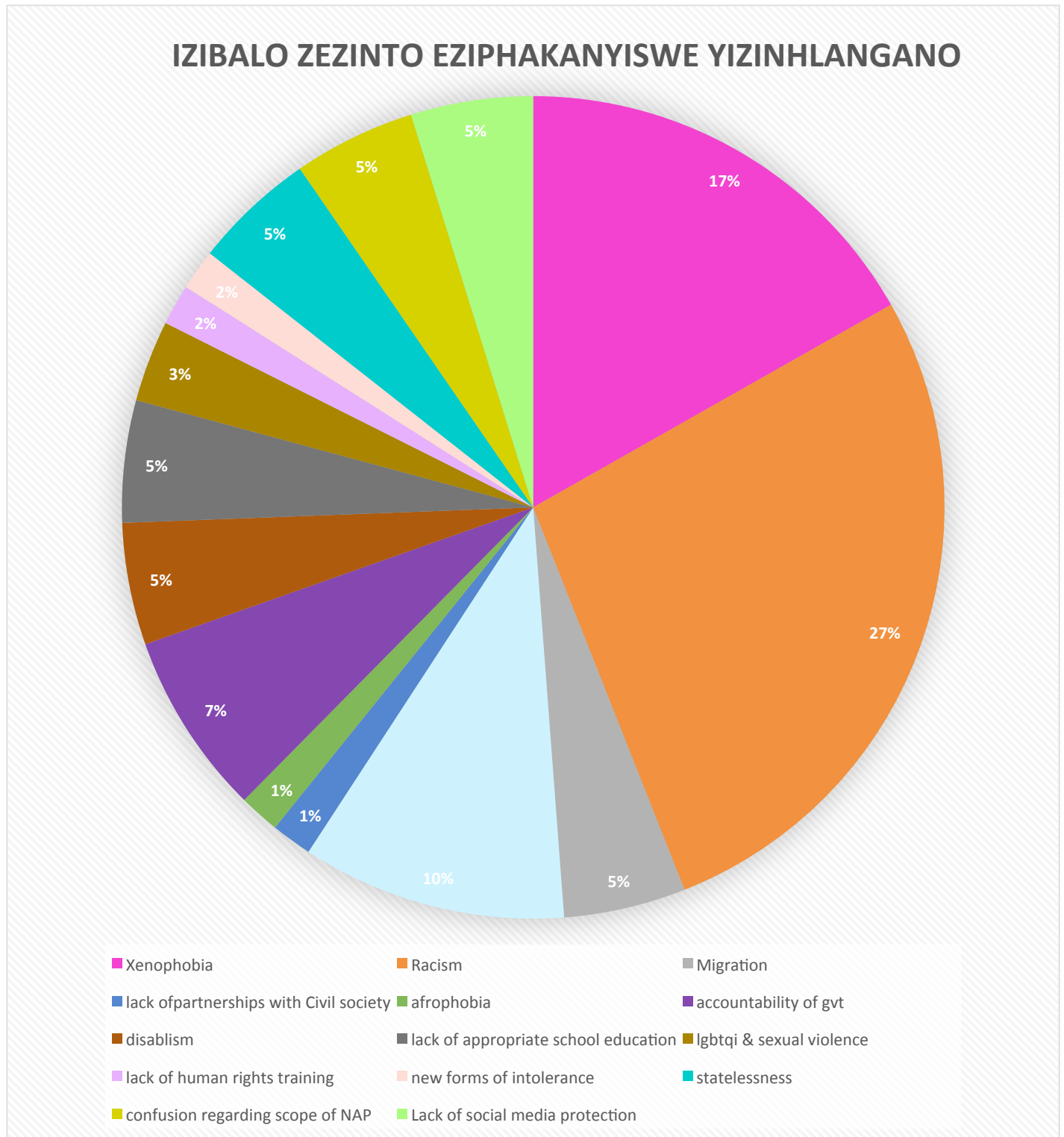
Uhulumeni

159. Uhulumeni unomsebenzi wokwakha uhlaka lomthetho kanye nenqubomgomo kokuvimbela ukucwasa ngobuhlangaukuzonda abantu bokufika kanye nokungabekezelelani okufanayobuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okunjalo kanye nokuqaliswa kwezindlela zokuvimbela. Ukuhambisana ngezindlela, uhulumeni kumele anyuse imizamo yakhe ekuvikeleni ukuvimbela ukucwasa ngobuhlangaukuzonda abantu bokufika kanye nokungabekezelelani okufanayobuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okunjalo ezindaweni ezifana nenqubomgomo yofuduko, inqubomgomo kanye nokuphathwa kwezobulungiswa kanye nokukhuthaza ukuhlangana kwezinhlobo zamasiko kanye nokwahlukahluhana kwamasiko. Ukuqeqeshwa ngamalungelo abantu kwezikhulu zikahulumeni nakho kubalulekile kulokhu.
160. Ngaphezu kwalokho, njengokuba kushiwo yiKomidi Lamalungelo Ezomnotho, Ezomphakathi kanye Nawamasiko embonweni walo owejwayelekile no. 21 (ka-2009) lamalungelo aphoqeela izinhlobo ezintathu noma amazinga ezibopho zikahulumeni: (a) isibopho sokuhlonipha; (b) isibopho sokuvikela; kanye no (c) isibopho sokugcina. Isibopho sokuhlonipha sihlanganisa ukuthatha izindlela ezithile ezihlose ukuzuza ukuhlonipha ilungelo lawo wonke umuntu, eyedwa noma nabanye noma emphakathini oma iqembu ukuthi bakhethe ngokukhululeka isiko labo, ukuba amaunga noma Ukungabi amalunga omphakathi, futhi isinqumo sabo sihlonishwe. Lokhu kuhlanganisa ilungelo lokungacwaswa noma ngayiphi indlela ngenxa yesiko, ukukhishelwa ngaphandle noma ukufana. Okokugcina, isibopho sokugcina sidinga ukuthi amagatsha oMbuso athathe izindlela ezifanele zomthetho, zokuphathwa, zokugweba, zezimali, zokukhuphula kanye nezinye izindlela ezihlose ukwazisa ilungelo elifakwe esihlokwini se-15, indima yoku-1(a), ye-Covenant.
161. Isihloko sesi-2 se-ICERD sithi Amagatsha Ombuso kumele angahambisani nokucwasa ngobuhlanga futhi azibophezele ukwenza ukulandelela ngezindlela zonke ezifanele ngaphandle kokubambezeka inqubomgomo eqeda ukucwasa ngobuhlanga ngazo zonke izindlela futhi nokukhuthaza ukuqonda ezinhlangeni zonke, futhi, kuze kube yimanje: Igatsha Lombuso ngalinye lizibophezela ekutheni ngeke likucwase ngobuhlanga umuntu, iqembu labantu noma izikhungo kanye nokuqinisekisa ukuthi iziphathimandla zomphakathi kanye nezikhungo zomphakathi, kuzwelonke kanye nasekhaya, kumele zilandele lesi sibophezelo.

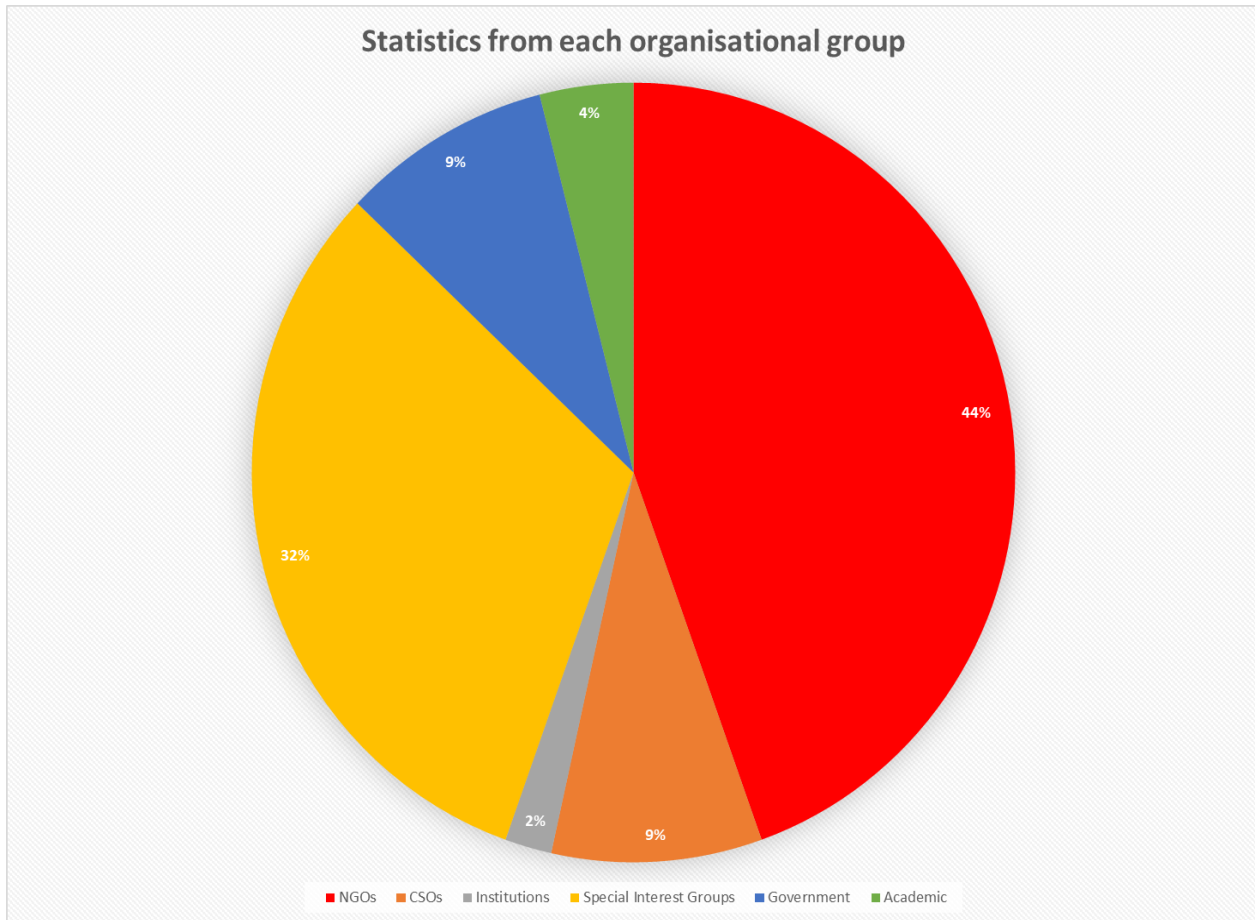
Uhlalo lokuxoxisana

162. Ukuhamba kusuka ku-WCAR kanye ne-DDPA, izinyathelo eziningi zathathwa ukusiza ukuthuthukisa i-NAP. Uhlaka lwesi-4 lwqavunyelwa yiKhabhinethi futhi lwenziwa ukuthi lutholakale kuwebhusayithi yeminyango ukuthola imibono yomphakathi. Ukuxoxisana nomphakathi kwenziwa ngonyaka ka-2016 futhi imibono yatholakala isuka emajajini, izikhungo zesigaba sesi-9, umphakathi womthetho, ezemidlalo, ezokusakaza, intsha, ezokusebenza, umphakathi, kanye namanye amaqembu, umkhakha kahulumeni kanye nowangasese. U-DOJCD, ekusebenzisaneni nabalingani abehlukene kanye nababambi beqhaza, wenza amaseshini okuqwashisa amaningi, bexoxisana ngodlaka lwe-NAP ezweni lonke, okuhlanganisa imiphakathi ephansi. Yonke imibono eyatholwa ithathiwe ohlakeni lokugcina lwe-NAP. izikhungo zesahluko sesi-9Umphakathi womthethoAbezindabaUmkhakha wangasese
163. U-DOJCD waba nezinxoxiswano Kwazulu-Natal, eGauteng, eNorth West, eMpumalanga, Northern Cape, eFree State, eEastern Cape, eWestern Cape kanye nase-Limpopo ingonyaka ka-2016. Uhlaka lwe-Nap lalikhona ku-*Thusong Service Centres* kanye namaHhovisi eSifunda oMnyango Wezobulungiswa kanye Nokuthuthukiswa koMthethosisekelo kanye nabo bonke ababambi beqhaza kanye nomphakathi wawumenyiwe ukuthi uhambise imibono yawo ku: nap@justice.gov.za.
164. Kwatholwa imibono eyi-152 esuka kubantu abayi-104 kanye nezikhungo, amaqembu ahlukene kanye nezikhungo Zesigaba sesi-9 ezingama-47. Ukuhlaziywa kwemibono kwatholakala, nemibono eyatholakala ezingxoxweni zezifundazwe, kwaqedwa futhi kwenziwa ngokombiko ohlodayo. Izikhungo Zesahluko Sesishiyagalolunye

165. **Isithombe soku-1** sikhombisa ukwahlukaniswa kwezinto ezahlukene eziphakanyisiwe yizinhlangano ezahlukene:



166. **Isithombe sesi-2** sibeka izibalo ezisuka eqenjini ngalinye emhlanganweni:



167. **Isithombe sesi-3** sikhombisa ukwahlukaniswa kwezinto ezahlukene eziphakanyisiwe ngabantu ngabanye:



Abantu kanye nemiphakathi: (emabhokisini emibhalo, hhayi ukulandisa)

- “Ngiphoxekile ukuthi ngonyaka ka-2016, igama elithi sotho kanye namanye basebenzisa igama amakula ukuchaza abantu abagamaNsiya eNingizimuAfrika. Ngobuze abantu abambalwa abasebenzisa leli gama, ngatshelwa ukuthi yigama “elejwayelekile njalo”. Lisuka egameni elithi *coolie*, yigama elehlisa isithunzi njenokuba igama lika *k* lehlisa isithunzi elisuselwa egameni lesi-Arab”

- “ngifuna ukwengeza ukuthi ukucwasa ngokobuhlanga akukho ezikoleni kuphela. Abantu abamnyama nabo...ngingumuntu omnyama ngeke ngiyisho iminyaka yami osuka e-KZN. Kodwa manje ngihlala eGoli. Umphathi wami ungumuntu omnyama osuka e-Eastern Cape. Wangitshela ukuthi ngigqoke iduku emsebenzini. Ekuqaleni ngangithi uyadlala...Okulandela lapho wakhomba ikhanda lami wathi...ngeke ngikhulume nawe ugqoke leli duku. Nginezingane esi-3 iminyaka yami ingaphezu kwengama-44”

- “...ngangihamba isikole kudala ..ngaphambi kwemithi eqondisa izinwele. Sonke sasihlanzekile futhi sigqoke kahle.. Sasibukeka njengezingane zesikole zamantombazane. Sasiziphatha njengezingane zesikole zamantombazane. Sasihlonipha othisha bethu futhi sasifunda kanzima. Saya emakholeji othisha ngonyaka ka-’76 futhi senza okwakumele kwenziwe. Izingane zasePitori azikami izinwele zazo futhi izinwele zazo zibukeka ngathi yizidleke zezinyoni. Kodwa babiza lokho ngokucwasa ngobuhlanga”

- “Ukungenelela okufana nemihlangano yokufundisa, ukufunda izilimi zendabuko, njll. Akasoze kwaqeda ukucwasa ngobuhlanga. KODWA cabanga uma kwenziwa icala elijezielwayo, abantu bazoqala becabange NGAPHAMBI kokuthi benze noma bakhulume ngokucwasa ngokobuhlanga. Ukulungisa indlela engalungile yokucabanga yomuntu ngezifundo zokwahlukahlukana ngeke kuyise phambili kakhulu. Akwenziwe kube yicala ELIJEZISELWAYO. Ngiyaqinisekisa, kuzophoxa abantu abangabacwasi ngokobuhlanga.”

- “Umbono wokubala ukuthi ngabe iNingizimu Afrika ikwazile noma cha ukwenza inqubekela phambili ekususeni “umnotho” kubantu abamhlophe uya kubantu abamnyama ayivumelekile, kodwa kungaphezu kwalokho – akulona iqiniso ukusebenzisa lokhu ukunquma ukuthi umlando wombuso wobandlululo usaqhubeka, njengokuba uhlelo lokusebenza lisho.”

- “... ukujezisa abantu abamhlophe ngokuthi bengaqashwa, ngokungabavumeli ukuthi badlale eqenjini lesizwe, ukungabavumeli ukuthi bathole amasheya ezinhlelweni zamasheya zabantu abamnyama kuphela, ukuqasha abantu abamnyama ngaphambi kwabantu abamhlophe ukufeza ikhotha lapho umuntu omhlophe ewufanele ukudlula umuntu omnyama umsebenzi nakho kungucwasa ngobuhlanga. Lokhu akasoze kwalungiswa umnotho. Lokhu ngeke kulinganise ukungalingani ngokomnotho kanye nangokomphakathi”

- “Abantu bendabuko bamaKhoi kanye namaSan babengaziwa ngokoMthethosisekelo ngalokho basabizwa “ngamakhxaladi”njengokuba babebizwa abombuso wamazwe asentshonalanga/ nohulumeni wobandlululo uma bechaza ubuhlanga babo. Thina, NKC, sinomthelela omkhulu maqondana ne-*Traditional and Khoi and San Leadership Bill*, njengamanje osephalamende, noma uhlelo selubambezeleke iminyaka eyi-17. Lokhu kwenza kukhishwe uhlanga lwabantu abaziwa ngokuthi “babuthaka”. Ukukhishwa kwabantu bamaKhoi kanye namaSan, isiko lethu, umlando, kanye nolimi kwengezwe kakhulu ekungabekezelelanini, ukucwasa ngokobuhlanga kwabantu beqembu, njengokuba kuchazwe ngokomthetho ukuthi ukucindezela kanye nokususwa isithunzi sokuba ngama-Afrika ngendlela engenabo Ubuntu okwenza ukuthi ukucwasana ngobuhlanga phakathi kwamaKhoi kanye namaSan kunzulu ngenxa yohlelo olusasichaza ngendlela esingeyiyo.”

- “Ngicabanga ukuthi ukucwasa ngobuhlanga kungaphezulu kwalokho. “Ukuqinisekisa ubukhulu ngenxa yokwahluka kwendalo” akukhona ukucwasa ngokobuhlanga. Lokhu ukuchaza okungeyikho kuka Kant. Umuntu akachazwa ukuhlakanipha kwakhe, umzimba noma isiko kodwa ngokuthi ungumuntu, noma ngokombhalo wobuKhristu, ngokuthi wenziwe ngomfanekiso kaNkulunkulu. Konke kwanele. Ukungavumeli ukuthi umuntu abe namalungelo esisekelo kungumnyombo wokucwasa ngokobuhlanga.”

- “Qala ngeziphathimandla ukubaqeqesha: Baphendule izingcingo. Uma nifika emahhovisi enu, niqale ukusebenza futhi niqhubeke nokusebenza ngezikhathi zokusebenza ningahlali nje futhi niyeke ukudla phambi kwababambi beqhaza, abantu abacela ukukhoseliswa abavela kwamanye amazwe kanye nabafuduki. Ningakhulumi nanababambi beqhaza abantu abacela ukukhoseliswa abavela kwamanye amazwe kanye nabafuduki nokudla okugcwele umlomo.”

168. Isahluko sesi-9 kuMthethosisekelo sisungula izikhungo ezizimele eziningi zokuqinisa intando yeningi yoMthethosisekelo eNingizimu Afrika ngokukhuthaza isiko lamalungelo abantu kanye nokuvikelwa, ukuthuthukiswa kanye nokutholwa kwalwo malungelo abantu, okuhlanganisa ukuqapha kanye nokuhlola ukuqaliswa kwawo. Izikhungo zesahluko sesi-9 ekulandeleni imigomo emaqondana nesimo sesikhungo zikazwelonke zokukhuthaza kanye nokuvikela amalungelo abantu zinegunya elibalulekile maqondana nokuvikela kanye nokuvikela amalungelo abantu okuhlanganisa nobuhlangaukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo. Zingadlala indima ekubhekaneni nalokhu:
- Ukusiza izisulu zokuphathwa ngendlela ehlukile ngezikhulazo zabo
 - Ukuphenya ukuphathwa ngendlela ehlukile
 - Ukushicilela imibiko ngokuphatha ngendlela ehlukile
 - Ukwenza izincomo ekulweni nokuphathwa ngendlela ehlukile
 - Ukukhuthaza ukuvikelwa, ukwenziwa kanye nokutholakala kwamalungelo abantu ezweni.
169. Kushiwo ukuthi amagatsha Esahluko sesi-9, azodlala indima esemqoka ekuqapheni kanye nasekuhloleni i-NAP.

Umphakathi womthetho

170. Umphakathi womthetho udlala indima emqoka ekwazini amalungelo abantu kanye nokwenza ukuthi umpakathi wethu ukhululeke. Isimemezelo saseThekwini sazisa ukubaluleka kwendima kanye nokubandakanyeka komphakathi womthetho ekulwisaneni nobuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okufanayo. Umphakathi womthetho unendima ebalulekile oyidlalayo ukwenza uhulumeni aphenhule. Futhi, amaqembu omphakathi womthetho asakhe isipiliyoni esiningi kanye nobuchwepheshe ekusebenzeni nezisulu zokucwasa ngobuhlangaukuzonda abantu bokufika kanye nokungabekezelelani okufanayoubuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okunjalo.
171. Uhulumeni waseNingizimu Afrika usephinde waqinisekisa Ubudlelwane bakhe nomphakathi womthetho ekuqinisekiseni ukwengamela okulungile. i
172. Indlela enzima yokucwasa ngobuhlangaukuzondwa kwabantu bokufikakanye nokungabekezelelani okufanayoubuhlanga, kudinga ubuchwepheshe bokwahlukahlukana ukuthi Abasebenzi bomphakathi womthetho ukwazi ukuhlinzeka. Umphakathi womthetho bengabamba iqhaza ekuhlaziyweni ucwango kanye nenqubomgomo ngokuqoqa imininingwane kanye nokubona ukujwayeleka kobuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufikakanye nokungabekezelelani okufanayo. Bengaphinda bahlinzeke ngokuqeqesha abezomthetho, abezosizo lomthetho kanye amaqembu akhanda amandla kanye nezisulu ngazinye zokucwasa ngobuhlangaukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo, kanye nokuzibophezela emisebenzini yokuqwashisa.

Abasebenzi bomphakathi womthetho bayizikhiye zokuvimbela kanye nokuqedwa ubuhlanga futhi kumele basebenzisane nohulumeni ekwenzeni lokho.

Umkhakha wangasese

173. I-NAP isebenza ngokuqondile kanye nangokubhekana ngalokho ibheke nomkhakha wangasese a. Amathuba amabhizinisi ayaqhubeka ukuthi abe ngobuhlanga, ubulili, indawo yokuhlala kanye nolimi. Umkhakha wangasese kumele uveze ukuzibophezela ekubhekeni amalungelo abantu ayisisekelo kanye nokuveza indlela engenakho ukucwasa ngokobuhlanga izindaba zokuqashwa. Lokhu kumele kuveze ushintsho olufanele futhi kuphakamise izindaba ezingavimbela ukwakhiwa kwabasebenzi abayindlela izwe lethu eliyiyona lapho umkhakha wangasese wenze inqubekela phambili encane kulokhu. Umkhakha kumele ubone ukuthi izimboni ezahlukeni zingayidlala kanjani indima yokubhekana nezinto ezenza kunyuke izinkinga ezifana nobubha kanye nokungabi bikho kwemfundo. Ngokwejoyalekile ibhizinisi lingumkhakha onganakwa uma kukhulunywa ngamalungelo abantu.

Umkhakha wezabasebenzi

174. Umkhakha wezabasebenzi uzibandakanye nemikhankaso eminingi yokuthuthukisa abantu okuhlanganisa kokunye kokunye ukuqwashisa ngobuhlangas ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okufanayo endaweni yokusebenza, ukuqwashisa kanye nokubheka ukusetshenziswa kwezingane, ukukhuthaza ukulingana ngokobulili, ukuhlinzeka ngemfundo kanye noqeqesho kumalunga ezinyunyana zokuhweba, ukukhuthaza ukusebenza kukahulumeni ekulweni nenkohlakalo. Umkhakha wezabasebenzi, nge-NEDLAC ewuhlaka olubalulekile lokuxoxisana okusemthethweni phakathi kukahulumeni kanye nabasebenzi, kwaxoxisanwa nayo futhi kusazoxoxisanwa nayo ezingxoxweni zenqubomgomo maqondana nobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okufanayos.

Abezindaba

175. Isigaba se-16(1) soMthethosisekelo siqinisekisa ukuthi wonke umuntu unelungelo lenkululeko yokukhuluma, okuhlanganisa, ilungelo lamapheoha kanye nabanye abezindaba kanye nenkululeko yezifundiswa. Kodwake, isigaba se-16(2) sithi ilungelo elingenhla alidluleli “kunkulumoze egqugquzela impi; ekugqugquzeleni udlame olufufusayo; noma ekutshaleni inzondo eyesekwe ngokobuzwe, ubuhlanga, ubulili noma inkolo, kanye nalokho okungukugqugquzela ngenhloso yokudala umonakalo”. Eqinisweni inzondo ayiyona inkululeko yokukhuluma.
176. Abezindaba badlala indima ebalulekile ekwakheni izwe kanye Nokwakha ukungabibikho kokucwasa ngobuhlanga kanye nokungabikho kokucwasa ngokobulili. Baphinde badlale indima ekwakheni umphakathi owaziyo, ofundile futhi onmibono futhi owenza uhulumeni ukuthi aphenhule. Njengokuba kushiwo sEsimemezelweni SaseThekwini, ukwenza ilungelo lokukhuluma, ikakhulukazi bezindaba, kungaba nomthelela omuhle ekulweni nobuhlanga,

ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okufanayo.⁵⁶ Lokhu kubalulekile ukuze inkululeko yethu isebenze.

177. I-NAP iyakwazisa ukuthi ukukwazi ukuthola ulwazi ngamaphepha, ukusakaza kanye ne-inthanethi kubalulekile ekwakheni izakhamuzi ezaziyo futhi ezikhuthele. Futhi kunomthelela ekuthuthukisweni kwemfundo kanye nezomnotho. Umkhandlu wezokusakaza ubheka amawebhusayithi amalunga abo kanye nokwephulwa kwesivumelwano sokuziphatha maqondana nokucwasa ngobuhlanga kanye nenkulumo yenzondo. Iforamu Yabahleli Yomhlaba (WEF) incoma indlela ebheke ukukhuthaza ukukhuluma okuwisizo njengokuvimbela ukuhlukumeza.
178. Ukuzimela kanye nokuzibusa kwezikhungo zabezindaba kanye namagatsha alawulayo okuhlanganisa Inkampani Yokusaka eNingizimu Afrika, uMkhandlu Wabezindaba eNingizimu Afrika kanye Nophiko Lwamazinga Okukhangisa kumele avikelwe. Kodwake ukwahlukahlukana kokuquthwe yizindaba kuveza ukwahlukahlukana kwabantu egumbini Lendlu yabezindaba. Kulokhu abezindaba abazishayela umthetho bengadlala indima enhle futhi nabo ekusizeni ukwakha isimo sezwe esihlukene ngokobuhlanga kanye nangokobuzwana, ngokuthatha izindlela ezinjengendlela yokuziphatha okungenzima futhi okungokuzithandela. Ukuzishayela umthetho kwabahlizeki be-intanethi kuyagqugquzelwa.
179. Abezindaba bayagqugquzelwa ukuthi badlale indima ekulwisaneni nobuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okufanayo ngokubika izigameko zobuhlanga, ukucwasa ngokobuhlanga, ukuzondwa kwabantu bokufika kanye nokucwaswa ngokobulili kanye nokwenza izinyathelo zokuqwashisa ukwenza umphakathi ukuthi ube nozwelo.
180. Abezindaba kuzophinde kuxoxiswane nabo ngezingxoxo nezinhlaka ezahlukeni kanye namagatsha amele abezindaba abehlukene kanye ngezindlu zabezindaba ezweni. Lokhu kuzokukatha Uphiko Oluzimele Lokuxhumana lwaseNingizimu Afrika, Umkhandlu Wokusakaza waseNingizimu Afrika kanye ne-SANEF. Abezindaba, njengamanye amaqembu, babehlizekwe ngethuba lokubeka umbono ohlakeni lwe-NAP ngesikhathi sohlelo lokuxoxisana.

Ubufundiswa

181. Izikhungo zemfundo ephakeme isikhathi esiningi zihamba phambili ekushintsheni komphakathi. Lezi zikhungo zizocelwa ukuthi zibike njalo ngonyaka ohlakeni lokwenganela i-NAP ngezigameko zobuhlanga, ukucwasa ngobuhlanga kanye nokungabekezelelani okufanayo kanye ngezinyathelo ezithathiwe ukubhekana nalokho.

Amagatsha ezemidlalo

⁵⁶ Report of Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Rutere. Human Rights Council 20th session Agenda Item 9, 15 May 2012 http://www.ohchr.org/Documents/Issues/Racism/A.HRC.20.33_en.pdf

182. Ezemidlalo zinamandla okuhlanganisa abantu – noma ukubehlukanisa. Ukucwasa ngokobuhlanga kwezemidlalo kukhona, hhayi eNingizimu Afrika kuphela, kodwa emhlabeni jikelele. Ezemidlalo kanye Nokuzijabulisa eNingizimu Afrika bazoba nomsebenzi wokuthola ulwazi ezinhlanganweni zasekhaya ezahlukeni ngezigameko zobuhlanga, ukucwasa ngobuhlanga kanye nokungabekezelelani okufanayo, kanye ngezinyathelo ezithathiwe ukukhipha ukucwasa ngokobuhlanga enkundleni yezemidlalo.

ISAHLUKO SESI-8: IZINDLELA

183. Indim edlalwa nguhulumeni maqondana namalungelo abantu ikathathu: **ukukhuthaza** kanye **nokuvikela** amalungelo abantu kanye **nokuvimbela** ukulinyazwa kwamalungelo abantu – noma kubizwe ngendlela ehlukile, ukushushisa, ukuvikela, kanyenokuvimbela, okwaziwa ngokuthi I “3Ps”. Isigaba sesi-7(2) soMthethosisekelo senza umbuso uzibophezele ekutheni “uhloniphe, uvikela, ukhuthaze, futhi ufeze amalungelo oMqulu wamaLungelo.”
184. Umbuso wenza izibopho kanye nemisebenzi ngaphansi komthetho womhlaba wokuhlonipha, ukuvikelwa kanye nokufeza amalungelo abantu ezindaweni zawo zokusebenza, ngaphandle kwanoma yikuphi ukucwasa. Futhi, “Umbuso, kuhlanganisa nawo wonke amagatsha awo, unomsebenzi wesisekelo wokukukhuthaza kanye nokukuvikela wonke amalungelo abantu, okuhlanganisa ukuvimbela ukwephulwa kwamalungelo abantu”.⁵⁷ Izibopho zoMbuso zihlanganisa umsebenzi wokuvikela ekuhlunyezweni kwamalungelo abantu kwezingxenye zesithathu, okuhlanganisa nababambi beqhaza bangasese. Imibuso ingephula izibopho zayo zomthetho womhlaba wamalungelo abantu lapho zingaphumeleli ukuthatha izinyathelo ezifanele zokuvimbela, ukuphenya, ukujezisa nokulungisa ukuhlukumeza kwababambi beqhaza bangasese.
185. Imihlahlandlela ye-NAP ye-UN iphakamisa uhlaka olususelwe esidingweni sesidingo sokwenza izinjongo, izinhloso kanye nezenzo ezithile, kanye nasekubalulekeni kokunqua amagatsha ombuso afanele, izinsuku ezihlosiwe kanye nokuveza ukusebenza kwenhloso ngayinye. izenzo I-NAP ihlinzeka inkomba ecacile yezinhloso zoMbuso emshikashikeni waso wokulwa nokukucwasa ngobuhlanga. Ibeka izindlela kanye nezinkomba ngesikhathi ezosidinga ukuthi kuzuzeke. Izindlela kanye nezinkomba ezishiwo ohlelweni ziqukethe umyalelo owusizo walaba abasebenza ohlelweni futhi ihlinzeka umhlahlandlela emphakathini jikelele.
186. Ukuze ihlangabezane nezimfuneko, izindlela eziphakanyisiwe kanye nezinkomba zibekiwe lapha ngezansi. Kumele kwaziwe ukuthi lezi zindlela azihlukene, kodwa kumele zibhekwe zihlanjaniwa nenqubomigomo ekhona, izinhlelo kanye nokungenelela.
187. I-DOJCD izokwenza **isisekelo socwaningo esizosebenza njengesisekelo** sokukala ukwenza kahle ezweni emuva kokuqaliswa kwe-NAP. Singaphezulu kwendaba yombono. Sizosetshenziswa ukwenza izincomo ngezidingo **Isisekelo socwaningo** zokuvikela kwamaqembu abuthaka kanye nakhishiwe. Isisekelo socwaningo sizothatha imithetho ekhona, inqubomigomo, izinhlelo, imisebenzi, izidingo kanye nezinsiza zabantu kanye nezezikhungo zokuqeda ubuhlanga Isisekelo socwaningoukucwasa ngobuhlangaukuzonda abantu bokufika kanye nokungabekezelelani okufanayoubuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okunjalo.
188. ukuhlukanisa ulwazi lwezibalo kuzoqoqwa ukubona imininingwane-
- Amaphethini okucwasa ngobuhlanga;

⁵⁷ A/HRC/RES/24/16, para. 2. The Inter-American Court of Human Rights has held that States have “a legal duty to take reasonable steps to prevent human rights violations” (*Velasquez Rodriguez v. Honduras*, 29 July 1988). E. Decaux and S. Touzé, *La Prévention des Violations des Droits de l’Homme* (Paris, Editions A. Pedone, 2015).

- Izithiyo ekuqedeni ubuhlanga kanye nokucwasa okumele kudlulwe kuzo, ngokunaka izinhlobo ezintsha zokucwasa ngobuhlanga kanye nezivelayo;
 - Ukukwazi ukuthola ubulungiswa kwezisulu zokucwaswa ngobuhlanga;
 - Izinhlelo zokulwa nokucwasa ngobuhlanga;
 - Ulwazi ngokungavunyelwa kokucwasa ngobuhlanga emphakathini owejwayelekile kanye ngaphakathi kwabantu abangaba yizisulu;
 - Ukuqhubela phambili kokucwasa ngobuhlanga ngabezindaba (okuhlanganisa umabonaude, umsakazo, ithanethi, amaphephandaba kanye namaphephabhuku);
 - Ukuthi ikharikhura iqinisekisa kanjani imigomo yokulingana kanye nokungacwasi kuwo wonke amazinga emfundo, kanye
 - Nokuba khona kanye nokutholakala kwemiqule ebalulekile yamalungelo abantu kanye nezinye izinto ezivikela ukulingana kanye nokungacwasi ezilimini zikazwelonke kanye nezendawo kanye nangendlela eyenziwe yalula.
189. U-DOJCD ngaphansi kobuholi bezinhlobo ezixhumanisayo, izokwenza uhlelo Olwexwayisa Ngaphambili oluxhunyaniswe **Nendlela Yokuphendula Esheshayo** eqaliwe u-**Indlela Yokuphendula Esheshayo** DOJCD. U-DOJCD uzophinde uqinisekise ukuthi imininingwane efanele kanye nezibalo kuqoqiwe futhi kwashicilelwa ezinombolweni zamacala okucwasa ngokobuhlanga kanye nokuzondwa kwabantu bokufika okubikwe emaphoyiseni, ezinombolweni zamacala ashushisiwe, kanye nezizathu zokungashushiswa kanye nemiphumela yamacala ashushisiwe.
190. U-DOJCD ngokusebenzisana neminyango kahulumeni, iminyango kahulumenilizikhungo Zesahluko Sesishiyagalolunye, Isisekelo Samalungelo Abantu kanye nomphakathi womthetho osebenza ngalezi zinto, izokwenza **uhlelo lwemininingwaneyolwazi olugciniwe lwamagama abasebenzi** abahlinzeki ngosizo kulezi zindaba oluzoxhunyaniswa Nendlela Yokuphendula Esheshayo.
191. U-DOJCD uzokhuthaza **amasu okucwaninga** ahlanganisa ukuphenya kwendlela, izizathu kanye nokuvala kobuhlanga kanye nokucwasa emikhakheni wemiphakathi kanye nangasese kanye ngezindlela ezifanele zokuqinisekisa ukuthi imininingwane efanele kanye nezibalo kuqoqiwe.
192. Ukukhuthazwa **imfundo engahambisani nobuhlanga kanye nokucwasa** kungumsebenzi okwabelenwe ngawo phakathi kweminyango kahulumeni kanye Nezikhungo Zesahluko Sesishiyagalolunye. U-DOJCD ngaphansi kwesiphrofetho se-NAP, uzokhuthaza izindlela ezahlukene zamasu emfundo yeminyango kahulumeni kanye ngezindlela ezithathiwe zokulwisana nobuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika ukuzonda abantu bokufika kanye nokungabekezelelani okufanayo.
193. U-DOJCD izokwenza uphinde uhlele **izinhlelo zoqeqesho** ngokubambisana neminye iminyango kahulumeni, Izikhungo zesahluko sesi-9 kanye nomphakathi womthetho ukukhuliswa ukuqwashisa kokungahambisani nobuhlanga, ukulingana kanye

nokungahambisani nokucwasa kwezikhulu zikahulumeni, umphakathi womthetho kanye nomphakathi owejwayelekile, ngokuhlanganisa ukweseka okusuka kochwepheshe abehlukene.

194. Lezi zindlela zingahlanganisa izinhlelo ezihlanganisa imizamo kazwelonke kanye ngokusebenzisana nabanye ababambi beqhaza, ukukhuthaza ukusetshenziswa kokutshala kwangasese ekuxoxisaneni nemiphakathi ethintekayo ukuze kuqedwe ububha, ikakhulukazi kulezo zindawo lapho iningi lezisulu zokukucwaswa ngobuhlanga lihlala khona. Umkhakha wangasese kumele ukucabange ukuba yingxenye yocwaningo lokuphenya indlela, izizathu kanye nokuvala kokucwasa ngobuhlanga, ukuzondwa kwabantu bokufikaukuzondwa kwabantu bokufikaukuzondwa abantu bokufika kanye nokungabekezelelani okufanayo.
195. Izinyathelo zenziwe ngokusebenzisa ifomethi ye-izenzo *Medium Term Strategic Framework* futhi ngalokho kumele zisize ukuhlanganisa kahle i-MTSF kanye ne-NDP.

Izenzo	Umsebenzi wokuholo (* bheka uhlelo lokuqalisa - kuncike ekushntsheni <i>Ukuqaliswaumyalelokwemiyalelo emuva kokhetho lukazwelonke lonyaka ka-2019</i>)	Imisebenzi kanye nemikhiqizo	Ukukalwa kwesikhathi: 2019-2024 (njengokuba kubekiwe ngokohlelo lokuqalisa) <i>Ukuqaliswa</i>
1. Isisekelo socwaningo	U-DoJCD	<p>1. Ukusungula isisekelo socwaningo ukunquma amazinga obuhlanga, ukuzondwa kwabantu bokufika, ukucwaswa ngenxa yobulili umuntu azifanisa noma afaniswa nabo, ubulili azikhethele bona kanye nokuziveza, izigameko zobuhlanga, ukuhlobana ngobuhlanga obuhlukene kanye nemibono yezwe.</p> <p>2. Ukuhlanganiswa kwemibiko, inqubomigomo, izinhlelo, izidingo abantu kanye nezinsiza ezidingekayo ukuqeda ubuhlanga ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika, ukuzonda abantu abathandana nobulili obufanayo kanye nokungabekezelelani okufanayo.</p>	
2. Ukuqoqwa kwemininingwane	U-DOJCD	<p>1. Ukwenza imininingwane igcineke emithonjeni eyahlukene yezibalo yemininingwane ukubona:</p> <ul style="list-style-type: none"> • amaphethini obuhlanga; • izithiyo ekuqedweni kobuhlanga kanye nokucwasa okumele kulwiswane nazo, ngokunaka izindlela zesimanje kanye nezivelayo zokucwasa ngobuhlanga; • Ukukwazi ukuthola ubulungiswa 	

		<p>kwezisuluzokucwasa ngobuhlanga;</p> <ul style="list-style-type: none"> • Ukwazi ngokungavunyelwa kokucwasa ngobuhlanga emphakathini jikelele kanye nabantu abangabi yizisulu; • Ukuqhutshwa kokucwasa ngobuhlanga ngabezindaba (okuhlanganisai Umabonakude, umsakazo, inthanethi, amaphephandaba kanye namaphephabhuku); • Nokuba khona kanye nokutholakala kwemiqule ebalulekile yamalungelo abantu kanye nezinye izinto ezivikela ukulingana kanye nokungacwasi ezilimini zikazwelonke kanye nezendawo kanye nangendlela eyenziwe yalula. <p>2. Ukusungula Iphuzu Elibalulekile lukaZwelonke lokuqalisa i-NAP.</p>	
3. Indlela Yokuphendula Esheshayo yokuqoqa imininingwane		<p>1. Ukusungula Indlela Yokuphendula Esheshayo ukuhlanganisa izigameko zamacala okuzondwa kwabantu bokufika/amacala enzondo abikwe ku-SAPS kanye ne-SAHRC ngenani lamacala ashushisiwe, kanye nezizathu zokungashushiswa kanye nomphumela wamacala ashushiswe yi-NPA.</p> <p>ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika, kanye nokungabekezelelani okufanayo ezikhulwini ezifanele.</p>	
4. ImininingwaneUlwazi olugciniwe		<p>1. Ukuhlanganisa imininingwaneulwazi olugciniwe/Umyalelo wabahlizeki ngosizo ukuhlizeka usizo ezisulwini zobuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika, ukuzonda abantu abathandana nobulili obufanayo kanye nokungabekezelelani okufanayo.</p> <p>2. U-DOJCD uzoba nelinki eya kumyaleli wabahlizeki kuwebhusayithi yakhe, yenze ulwazi ukuthi lutholakale kuzo zonke izikhulu zehhovisi lakhe.</p> <p>3. Ukwenza imikhankaso yokuqwashisa ukudumisa kanye nokwazisa umphakathi wemiyalelo yemisebenzi ngokujwayela kanye ngokusebenzisana nezinhlangano zomphakathi womthetho.</p>	
5. Ucwango		<p>1. Ukuzibophezela ekuphenya indlela,</p>	

		<p>izizathu kanye nokubonakala kobuhlanga kanye nokucwasa emikhakheni yangasese kanye neyomphakathi.</p> <p>2. Ukuzibophezela ocwaningweni lobulungiswa obugcinekayo.</p> <p>3. Ukwenza incazelo yokwakheka kwezizwana emphakathini wethu, ikakhulukazi abantu bendabuko kanye nabantu abangezona izakhamizi.</p> <p>4. Ukubuyekizwa kwezindlela zonke ezithile ezithathiwe ukubhekana ngokuhlukana okuqhubekayo eNingizimu Afrika kanye nokuhlola lezi zindlela.</p> <p>5. Ukukhuthaza amathuba ocwaningo ezindaweni zokuvimbela ubuhlanga kanye nokucwasa.</p>	
6. Imfundo kanye noqeqesho		<p>1. Imfundo kanye noqeqesho ingumthwalo phakathi kweminyango kahulumeni kanye Nezikhungo Zesahluko Sesishiyagalolunye. U-DOJCD angaphansi kwe-NAP uzokhuthaza izindlela eziningi zemfundo zeminyango kahulumeni kanye ngezindlela ezithathiwe zokulwisana nobuhlanga, ukucwasa ngobuhlanga, ukuzondwa abantu bokufika kanye nokungabekezelelani okufanayo.</p> <p>2. Ukusebenza ne-SAJEI ukuqinisekisa ukuqeqeshwa kwezikhulu zamajaji. t</p>	
7. Ukubhekana nezindaba ezimaqondana nomhlaba		<p>1. Ukubandakanya ezingxoxweni zikazwelonke maqondana nomthetho.</p> <p>2. Uhulumeni ukuthi enze imiqulu yenqubomgomo eyenza ukubuyiselwa komhlaba wombuso ongenamuntu futhi ongasetshenziswa.</p> <p>3. Ukuqinisekisa izinhlelo ezinomthelela zokukhuphula izindlela zoqeqesho kanye nokweseka okuqinisekisa ukuphumelela kwbazuzi bokubuyiselwa komhlaba.</p> <p>4. Ukukhuphula ukuvikeleka kwendawo yokuhlala kanye nokwenza ncono ukuvikeleka kwabahlali basemapulazini.</p> <p>5. Zonke izinto ezimaqondana nomahlaba zizoqondiswa yizinhlelo zomthetho kanye nezinhlelo zasephalamende.</p>	

8. Ukwehlisa ububha		<p>1. Ukuqaliswa komholo omncane kuzwelonke kanye nokuqinisekisa ukuqapha kanye nokuphoqeelwa kwalo Ngumnyango Wabasebenzi.</p> <p>2. Izinhlelo eziphindaphindekayo zokuthuthukiswa kwamakhono kanye nokuxhumana kancono maqondana nokutholakala kwazo.</p> <p>3. Ukwenza ncono ukwakhiwa kwamathuba emisebenzi. I</p> <p>4. Ukuqinisa imizamo yokutholakala kokudla okunempilo.</p>	
9. Ukusheshisa ushintsho		<p>1. Umbuso kumele wenze izinhlelo eziningi ezinomthelela ukuqinisekisa ukukwazi ukuthola, ubunikazi, izikhungo zezimali ngabantu abamnyama, intsha kanye nabantu besifazane. Lokhu kumele kuhlenganise izindlela ezinhle zokulawula kanye nokunika imvume ekhuthaza ukuncintisana kanye nokuvumela ukuphatha kwabantu abehlukahlukeni.</p> <p>2. Ukwenza ncono ushintsho lomkhakha wezokuvakasha.</p> <p>3. Ukuqapha uhlelo ekuqalisweni kwenqubomigomo yokuqasha ngokulingana.</p>	
10. Ukuqeda ifa likahulumeni wobandlululo emfundweni		<p>1. Izindlela zokubhekana nezinsalelo zokungalingani phakathi kwemfundo yasezindaweni zasemakhaya kanye neyasezindaweni zasemadolobheni ngokuqinisekisa ukuthi kunezinsiza ezanele esikhungweni zemfundo zezingane ezindaweni ezisemakhaya kanye nasemalokishini ngokuhlinzeka izisombululo kanye nezinhlelo zemfundo kanye noqeqesho ezifaka wonke umuntu eziyikhwalthi, eziphumelelayo futhi ezishintshekayo.</p> <p>2. Ukuqinisekisa isifundo zokuthuthukiswa kanye nokufaka ukungahambisani nokucwasa ngobuhlanga kanye nokukhuthaza ukulingana ezinganeni ezincane kanye nekharikhulamu yesikole.</p> <p>3. Ukunyusa kanye nokuqapha izinhlelo zokungahambisani nokucwasa ngokobuhlanga ezikgungweni zemfundo yezingane ezincane kanye nezikhungo</p>	

		<p>zempendo ephakeme.</p> <p>4. Ukwakha isiko lokufunda elisha, elihlanganisa bonke abantu, okuhlanganisa izinhlelo ezihlose ukuqeda ubuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu abathandana nobulili obufanayo, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo.</p>	
11. Ukukhuphula ukukhiqizwa kolwazi		<p>1. Ukuhlinzeka ngezinsiza zokweseka ababhali kanye namaciko amnyama.</p> <p>2. Ukukhipha imikhankaso Ekhuthaza ochwepheshwe abamnyama ukuthi bashicilele.</p> <p>3. Ukukhuthaza ushintsho ezindlini zokushicilelwa ukuvula isikhala sokukhuthazwa kwemibono yabantu abamnyama.</p>	
12. Ukukhipha umqondo qokubuswa ngamazwe asentshonalanga		<p>1. Ngokusebenzisa uhlelo lwezempendo ukufaka ezingqondweni zezingane ukuthi wonke umuntu unegunya lamalungelo akhe futhi akekho umuntu omkhulu kunomunye.</p> <p>2. Ukwenza izinhlelo esikhungweni zonke zokufunda ukuthi ezenza futhi ezikhuthaza ukubaluleka kokubekezelana ngokobuhlanga, ngokosiko kanye nangokwenkolo kwabo bonke abantu abehlukene.</p> <p>3. Ukusebenzisa abezindaba ukugqamisa kanye nokuthokozela ubuhle beNingizimu Afrika abasuka kuzo zonke izindawo.</p> <p>4. Ukusebenza ne-SANEF/nabezindaba amagatsha ezindlu/okufanayo ukuqinisekisa isimo somphakathi kanye noqeqesho lokwahlukahlukana lomkhakha wabezindaba ukuqinisa ukubika okulungile, okunozwelo kanye nokufanele.</p>	
13. Ukukhuthaza ukubumbana komphakathi	uMnyango Wezokuthuthukiswa koMphakathi	<p>1. Ukuzibophezela ekumepheni umphakathi ezindaweni ezihlosiwe</p> <p>2. Ukuhlanganisa imiphakathi ngokwezingxoxo zomphakathi zokwenza abantu babe nozwelo endleleni ehlukanisayo yomlando wethu kanye nomthelela wawo.</p> <p>3. Ukuhlanganisa umphakathi wethu</p>	

		<p>ngemikhankaso yokukhuluma ngobuhlanga ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika, ukuzonda abantu abathandana nobulili obufanayo kanye nokunye ukungabekezelelani.</p> <p>4. Ukwenza kanye nokusebenzisa ubuciko kanye namasiko ukuncoma ukwahlukahlukana kwamasiko njengento ebalulekile yokuhlanganisa izwe.</p> <p>5 Ukudumisa kanye nokukhuthaza izindawo zamagugu kuzwelonke.</p> <p>6. Ukuqapha izigameko zobuhlanga, ukucwasa ngobuhlanga kanye nokungabekezelelani okufanayo kwezemidlalo.</p> <p>7. Ukusebenzisa ukwakhiwa kwe-DBE kanye nokubuyekeza inqubomigomo ukuthi kuhlanganiswe bonke ababambi beqhaza ekuqalisweni izinyathelo zokulwa nobuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufikaukuzonda abantu bokufika kanye nokungabekezelelani okufanayo.</p> <p>8. Ukwenziwa kohlelo lokubamba iqhaza ukwenza Isu Elihlanganisiwe Likazwelonke Lokuvikela, Lokukhuthaza kanye Nokuqinisekisa Amalungelo Abantu Abanebala Elimhlophe.</p>	
14. Ukwazisa umphakathi ngokucwasa		<p>1. Ngokusebenzisa izinsuku zikazwelonke zokuthokozela kanye nokukhumbula ukulwisana nobuhlanga, ukucwasa ngobuhlanga, ukuzonda abantu bokufika kanye nokungabekezelelani okufanayo.</p> <p>2. Ukusebenza nabezindaba/nezindlu zabezindaba/SANEF/izinhlangano zomphakathi womthetho kanye Nezikhungo zesahluko sesi-9 ukuqinisa imikhankaso Enjengeviki Lokungahambisani Nokucwasa Ngobuhlanga. -t</p>	
15. Ukulwisana nokucwasa ngenxa yobuzwe		<p>1. Noma kuhlonishwa amasiko ehlukeni, ukufundisa abafundi futhi ngobungozi bokucwasa ngenxa yobuzwe.</p> <p>2. Ukufaka ukuziqhenya kwezwe ngezimpawu ezikhuthaza ubunjalo bezwe.</p> <p>3. Ngokusebenzisa imikhankaso</p>	

		yokuxhumana kahulumeni ukuhlanganisa umphakathi ukuthi ungacwasi ngenxa yobuzwe.	
16. Ukulwisana nokuzondwa kwabantu bokufika	Umnyango ezokuthuthikiswa Komphakathi	<p>1. Ukuqinisekisa ukuqaliswa kwezincomo ezenziwe yiYikomidi le-<i>Ad Hoc</i> lePhalamende Elihlangene Elihlola Umbiko Wodlame Olubhekiswe Kubantu Bokufika kanye Neqembu Lokubuyekeza Lofuduko kanye Nokuhlanganiswa Komphakathi e-KZN, usihlalo kwakunguJaji-Navi Pillay.</p> <p>2. Ukubeka izindlela zokuqinisekisa ukuthi abantu abangezona izakhamizi bayaluthola usizo njengokuba kufanele ngokoMthethosisekelo.</p> <p>3. Ukuphoqelesa usiko lobuntu ekuphatheni kwabafuduki, ababaleki kanye nabacela ukukhoseliswa.</p> <p>4. Ukusiza ukuhlanganisa abafuduki ukuthi bahlangana nemiphakathi abazohlala kuyo.</p> <p>5. Uhulumeni acabange ukwenza uhlaka lenqubomgomo emaqondana nabantu abangenawo amazwe kanye nokuqedwa Ukungabi nazwe kwabantu.</p>	
17. Ukuqeda udlame lobulili, ukubulawa kwabantu besifazane kanye nokucwaswa ngenxa yobulili		<p>1. Ukubhekana nokukhathazeka okuphakanyisiwe kumemorandamu ye-#TotalShutdown ebhekiwe Esimemezelweni Senkulumo Kamongameli eliswana Nodlame Lobulili kanye Nokubulawa Kwabantu Besifazane okubalwa, ukusungulwa uhlelo olunemikhakha eminingi, oluphendula odlameni lobulili kanye nokubulawa kwabantu besifazane okuhlanganisa nokwaba izinsiza ezidingekayo kanye nesu lukazwelonke lodlame lobulili kanye nokubulawa kwabantu besifazane.</p> <p>2. Ukusungula Ukuqashwa Kokubulawa kwabantu besifazane.</p> <p>3. Ukukhuthaza izingxoxo zomphakathi ezilwisana nodlame olubhekiswe kubantu besifazane kanye nezingane.</p> <p>4. Ukunikwa izinsiza ezanele kanye nokuqiniswa kwe-Thuthuzela <i>Care Centres</i>, Izinkantolo Zamacala Ocansi kanye ngezindlu.</p>	

		<p>5. Ukuqinisa ukuqalisa i-<i>Domestic Violence Act</i> (we-116 ka-998)</p> <p>6. Ukubhekana nodlame ezikoleni kanye nokuhlinzeka indawo ephephile yabo bonke abafundi.</p>	
<p>18. Ukuqinisekisa izisulu zokuphathwa ngabantu bamazwe asentshonalanga kanye nezikahulumeni wobandlululo</p>		<p>1. Ukufundisa abafundi ngomlando wethu wokubuswa ngabantu abasuka emazweni asentshonalanga.</p> <p>2. Ukubheka noma yimuphi umsebenzi ongaqedwanga Wekomidi Lamaqiniso kanye Nokubuyisana, okuhlanganisa nokuqaliswa kwezincwadi zalo. ukuqaliswa</p> <p>3. Ukukhuthaza ukusayinwa Kwesivumelwano Sokungahambisani Nohulumeni Wobandlululo kanye Nesivumelwano Esingahambisani Nokunyamalala Okuphoqiwe.</p> <p>4. Ukudumisa izimpawu zethu zezwe kanye namaqhawe ethu omzabalazo.</p>	
<p>19. Ukukhuthaza ukuqwashisa ngamalungelo omthethosisekelo kanye nawabantu.</p>		<p>1. Ukuqalisa izinhlelo njenge-<i>Amarightza</i> ukukhuthaza ukuqwashisa ngamalungelo omthethosisekelo kanye nawabantu.</p> <p>2. Ukufundisa imiphakathi ukuthi bengawafaka kanjani amalungelo abo emigudwini enjengabameli babo, amagatsha Esigaba sesi-9 kanye nezinkantolo.</p> <p>3. Ukudumisa ukusetshenziswa Kwezinkantolo Zokulingana kanye nokuqinisa Izinkantolo Zokulingana.</p> <p>4. Ukwenza Umncintiswano Kazwelonke Wenkantolo Yokudlala ube yingxenye yekharikhulamu.</p> <p>5. Ukwenza amathuluzi omasipala okulwisana nobuhlanga, ukucwasa ngobuhlanga kanye nobandlululo (isb. Njengokuba Umasipala Omkhulu waseThekwini wenzile.)</p> <p>6. Ukufaka ngokugcwele i-CRPD eMthethweni waseNingizimu Afrika wasekhaya.</p>	

Isahluko sesi-9: Indlela Yokwengamela

196. I-NAP idinga indlela yemikhakha eminingi ezinze ekuzibandakanyeni kweminyango kahulumeni and nemikhakha. I-NAP idinga uhlaka oluhlanganisiswe ngaphansi kobuNgqongqoshe obuhlanganisa ababambi beqhaza abaningana, ababika ohlakeni oluphezulu kakhulu lwezepolitiki ezweni. Ukuqalisa okufanele futhi okunomthelela kwe-NAP kuhlanganisa uhlaka lokwengamela okunomthelela kanye nokuhlolwa kanye nokuhlolwa kwezinhlelo eziqalisiwe. Lokhu kuveza ukubaluleka kohlelo oluchazwe kokugqamile eliqondayo iqhaza kanye nemisebenzi eyahlukene yababambi beqhaza ababandakanyekayo.
197. Izinto ezilandelayo kumele zithathwe ekusiholeleni ekuqalisweni kwendlela enomthelela yokwengamela:
- (i) Ukubaluleka kokusebenzisa indlela ye-NAP ezintweni eziningi ngesikahthi;
 - (ii) Ukuphendula esiphathimandleni esiphezulu kakhulu ezweni, ukubika kuKhabhinethi/ePhalamende;
 - (iii) Ukwesekwa kwezepolitiki okusezingeni eliphezulu kakhulu, njengehhovisi likaMongameli;
 - (iv) Ukuqaliswa kwe-NAP kuyo yonke imikhakha ngokwesekwa kwezepoliyiki kuwo wonke amazanga (kahulumeni kazwelonke, wezifundazweni kanye nowasekhaya); Ukuqaliswa
 - (v) Ukuqaliswa kwe-Nap kudinga indlela yemikhakha eminingi yemikhakha yomphakathi kanye neyangasese; Ukuqaliswa
 - (vi) Amalunga akhethiwe ngokobuchwepheshe kanye namakhono awo (isb. Ukucwaninga; ukuhlaziya ulwazi, ukwenza inqubomgomo kanye ukuphathwa kokuhlaziya; ukulingana; ubuhlanga; imininingwane/ulwazi njll.);
 - (vii) Kumele kubhekwe ukwakiheka, umyalelo, igunya, indima kanye nemisebenzi kanye nezindaba zokwengamela kohlelo (uhlaka/amagama okubuyekizwa);
 - (viii) Ubunikazi bokhiye/ukuhola kanye neminyango kahulumeni esekayo kanye nebamba iqhaza ehlakeni lokungamela;
 - (ix) Iminyango kahulumeni ukwazi abamele kanye nababheke ukubamba iqhaza kanye nohlaka lukahulumeni;
 - (x) Iqhaza kanye nemisebenzi echazwe ngokucacile kwababambi beqhaza (Iminyango kahulumeni; Izikhungo zesahluko sesi-9; societyizinhlangano zomphakathi womthetho, isishayamthetho; amajaji kanye nemikhakha eyahlukene);
 - (xi) Iminyango kahulumeni ukubamba iqhaza kulolu hloko njengokuba kuvunywe yizinhlelo zabo ze-APP kanye ne-MTSF zokuqalisa izinhlelo ezingahambisani nokcwasa;
 - (xii) Yonke iminyango kahulumeni iphoqeleke ukuqinisekisa ukuthi ama-APP abo aveza izindlela zokungahambisani nokucwasa njengokusho kwe-NAP yokugcina;
 - (xiii) Uhlumeni njengesisebenzi esihlinzeka ngezinsiza: ngokuhlukana okunamandla afanele kanye nokukhokhelwa kwehhovisi lomabhalane ukweseka uhlaka lokwengamela kanye nemisebenzi kanye nemiyalelo eyahlukene yamaqembu obuchwepheshe; ihhovisi lomabhalaneamaqembu obuchwepheshe
 - (xiv) Ukubiza kohlelo lokwengamela, kanye

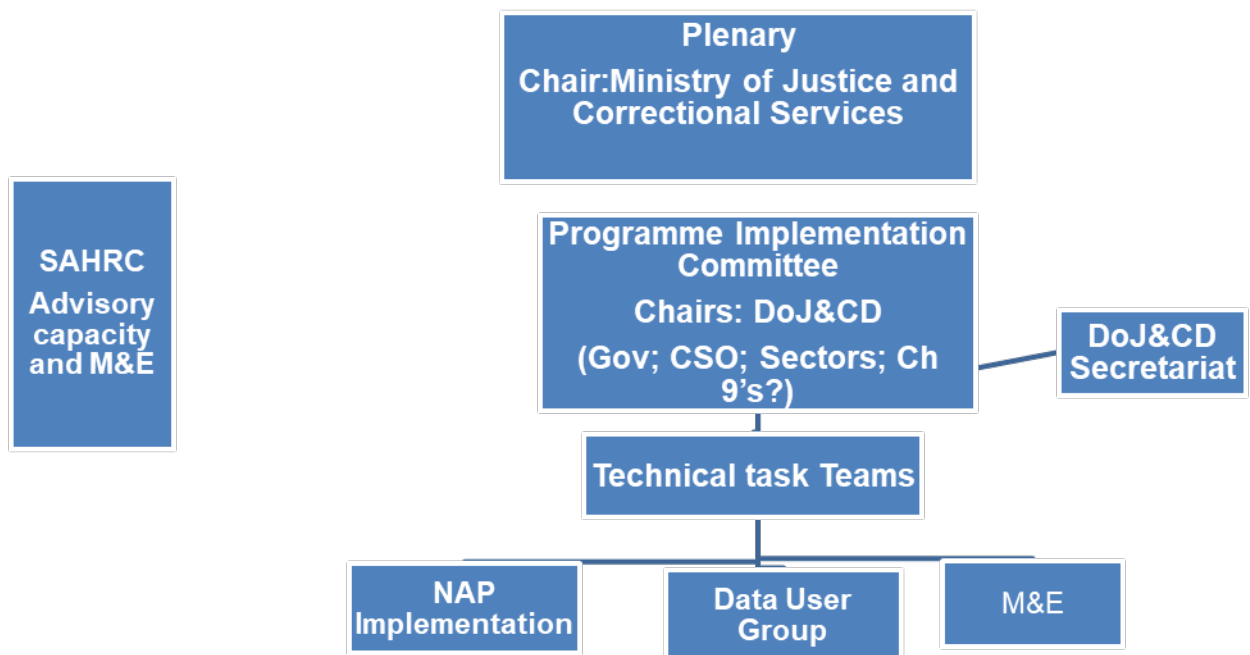
(xv) Nokucabanga ukunikwa ukuphindeka kwemisebenzi yezinhlaka ezikhona zikahulumeni.

198. Indima ebalulekile yePhalamende, njengesishayamthetho kanye neKhabhinethi, njengegatsha eliphezulu likahulumeni kanye nezinga eliphezulu eliphakanyiswe ukwengamela uhlaka lwe-NAP ngazo zonke amazanga kahulumeni kanye ukuqaliswanomphakathi womthetho kanye nokuqinisekisa ukwesekwa ngokwezepolitiki ezingeni eliphezulu kwejwayelekile ezindleleni zombili. Iphalamende kumele libe yinhloko ye-NAP kuwo wonke amazanga kahulumeni kanye ukuqaliswamphakathi womthetho kanye nokuqinisekisa ukweseka ezingeni eliphakeme.
199. Umsebenzi wePhalamende wokubheka ukwenganyelwa kwe-NAP kubalulekile ngezizathu ezilandelayo;
- Iphalamende linendima ephakathi eliyidlalayo njengegatsha lesishayamthetho sikahulumeni;
 - UNgqongqoshe Wezobulungiswa kanye Nezokuhlunyleliswa Kwezimilo ubika ePhalamende kumaKomidi ePhothifoliyo afanele;
 - Amakomidi ephothifoliyo ayizinhlaka ezibalulekile zikahulumeni kanye nokubamba iqhaza komphakathi;
 - Amakomidi Ephalamende ahlinzeka ishashalazi kumalunga omphakathi ukuthi abeke imibono yawo ezindabeni ezidingidwayo;
 - Ukuqinisekisa ukubamba iqhaza okunyukile kwamalunga alo ukudingida izindaba zokusebenzisa i-NAP yonke indawo;
 - Ukuhlinzeka ukweseka okusezingeni eliphezulu okudingekayo ukuqalisa i-NAP; ukuqaliswa
 - Ukwenza yonke iminyango kahulumeni iphendule ekuqalisweni kwe-NAP, kanye ukuqaliswa
 - Ukubheka ukuqashwa kanye nokuhlolwa kokuqaliswa kwe-NAP ukuqaliswa
200. Umsebenzi weKhabhinethi ezinhlakeni zokwenganyelwa kwe-NAP ubalulekile. Ngenxa yendlela eguqukayo ye-NAP kudingeka ukuthi iphathwe ngaphakathi kanye nakwamanye amaqoqo kahulumeni kanye namaKomidi eKhabhinethi afanele, futhi hhayi iKhabhinethi ye-JCPS kuphela. Futhi, kumele kucatshangelwe ukubaluleka kokufakwa kwezinkinga zomphakathi emsebenzini we-JCPS kanye nakuwo wonke amaqoqo, ngokuhambisana nomgomo wokuthi amalungelo abantu ayafana yonke indawo futhi awahlukaniseki.
201. IKhabhinethi njengegatsha eliphezulu lokwenziwa kwenqubomgomo ezweni, izoba nemisebenzi elandelayo maqondana nokwenganyelwa kohlaka lwe-NAP:
- Ukubheka ukwenziwa kokuqaliswa kanye nokuqapha i-NAP yohlelo lokusebenza lulonke; ukuqaliswa
 - Ukubheka isu lokuqalisa okuhlanganisayo lwe-NAP; ukuqaliswa
 - Ukubheka ukubuyekizwa inqubekela phambili yokuqalisa i-NAP lapho izwe lingahlangabezana nezibopho zomhlaba wonke; ukuqaliswa

- Ukubona ukubika mayelana nokuqaliswa kwe-NAP esigabeni esiphezulu sezepolitiki; ukuqaliswa
- Ukubona ukuzibophezela kokuqaliswa i-NAP kuyo yonke ukuqaliswaiminyango kahulumeni; umkhakha wangasese; izikhungo zesahluko sesi-9, umphakathi womthetho kanye semikhakha eyahlukene, kanye
- Ukuvunyelwa kokukhokhelwa kohlaka lokwengamela.

202. Ukwengamela okuphakanyisiwe kohlaka kuzohlalwa esigabeni esiphezulu sezepolitiki nguNgqongqoshe Wezobulungiswa kanye Nokuhlunyelelwa Kwezimilo. Ukwengamela okuphakanyisiwe linokuhlela, usihlalo okunguNgqongqoshe, Uhlelo leKomidi Lokuqalisa kanye Amaqembu Ochwepheshe Okusebenzi. Omabhalane bezinhlaka bazoba e-UkuqaliswaAmaqembu obuchwephesheihhovisi lomabhalane DoJCD.

Isakhiwo sokwenganyelwa kwe-NAP esiphakanyisiwe



203. Imisebenzi ephakanyisiwe yeKomidi Lohlelo Lokuqaliswa lizoba kanje:

- UkuqaliswaLizohlangana njalo ngekota onyakeni;
- Lizohlola ukusebenza kwababambi beqhaza be-NAP; ukuqaliswa
- Lizobika kuKhabhinethi enqubekeleni phambili esiyenziwe ekuqalisweni kwe-NAP kukonke; ukuqaliswa

- Ukubheka nqo kohlelo lokuqapha kanye nokuhlola i-NAP;
 - Ukuphendula imibuzo maqondana ne-NAP;
 - Ukuhlinzeka ngokuhola ukuqaliswa kwe-NAP; ukuqaliswa
 - Ukusungula amaqembu obuchwepheshe ukuqinisekisa ukuqaliswa kanye nokubheka i-NAP, kanye amaqembu obuchwepheshe ukuqaliswa
 - Nokuqinisekisa ukwenziwa kanye nokuhamba ngohlelo komsebenzi wamaqembu obuchwepheshe. amaqembu obuchwepheshe
204. Kuzoba namaqembu obuchwepheshe ezindaweni ezilandelayo:
- Njokuqaliswa kwe-NAP;
 - INjengeqembu Lokusetshenziswa kwemininingwane ezindleleni zokuqoqwa kweimininingwane yezigameko discrimination zokucwasa ngobuhlanga, ukuzondwa kwabantu bokufika kanye nokungabekezelelani okufanayo kanye
 - Nokubheka kanye Nokuqapha (ukubika kwezwe kanye nokukazwelonke).
205. Amaqembu obuchwepheshe azobika eKomidini Lohlelo Lokuqaliswa ezindaweni zawo zokusebenza. Izincomo ngohlelo Lokusiza Ngobuchwepheshe ekuhlaziyweni kwezindlela zokuqoqwa kwemininingwane yezigameko zobuhlanga, zokucwasa ngobuhlanga ukuzondwa kwabantu bokufika nokungabekezelelani okufanayo zikhuluma futhi zibeka izincomo ezeseka uhlelo lokwengamela oluhlongoziwe.
206. Ukwenganyekwa kwe-NAP okuphakanyisiwe kuzosebenza njengegatsa likahulumeni njengokuba kungadingi umthetho. Ubuhle begatsha likahulumeni ukuthi kuzokwazi ukuthi u-uMgcinimafa kaZwelonke ukufaka uringo lezimali emikhakheni yeminyango futhi idlulis lokhu ohlakeni lokwengamela. Igatsha likahulumeni lizobekwa eduze nobungqongqoshe obuphethe, kodwa lisebenza ngokunganciki eminyangweni njengosihlalo Wohlelo Lwekomidi Lokuqaliswa lizobika kuNgqongqoshe. Ukubhekwa kuzosala Neziphathimandla Eziphezulu. Igatsha likahulumeni lizophinda likwazi ukuthola izimali ezisuka kubaxhasi bamazwe.
207. Ababambi beqhaza abamelwe Ohlakeni Lokwenganyelwa kwe-NAP luzohlanganisa:
- Iminyango kahulumeni ebalulekile;
 - Imikhakha ymphakathi womthetho izinhlangano okungezona ezikahulumeni kanye nezinhlangano zomphakathi, amaqembuno zezenkolo, ezemfundo ephakeme, ezabasebenzi, umthetho kanye namalungelo abantu, ezemisebenzi; abesifazane kanye nentsha; izinhlangano zaabafuduki/ababaleki/ababaleki);
 - Imikhakha (abezindaba; ezemisebenzi; amabhizinizi);
 - Izikhungo zesahluko sesi-9, kanye
 - Nezikhungo zezifundiswa/nocwaningo.
208. Igatsha le-DOJCD Lezokuthuthukiswa koMthethosisekelo, futhi libekwengaphakathi kuMqondisi Omkhulu: Ubulungiswa Bomphakathi kanye Nokubamba Iqhaza Kuntando

Yeningi, Umqondisi: Ubulungiswa Bomphakathi uzoqhubeka nokuhlinzeka ukweseka kokuphatha kanye nokuhlela njengeihhovisi lomabhalane. Ihhovisi lomabhalane eliphakanyisiwe uhlaka lwamanje Lomqondisi kanye nezinsiza kumele kubuyezwe ukuqinisekisa ukuthi ihhovisi lobhalane linamandla afanele futhi likhokhelwe ukweseka imiyalelo kanye nemisebenzi yohlaka lukahulumeni. Ngesikhathi sezinga lokuqaliswa, uzodlala indima ebalulekile kwenye yazo-

- Ukwenza, ukweseka kanye nokuhlanganisa ukuqaliswa kohlelo lukahulumeni ukuqinisekisa ukuqaliswa kwe-NAP;
- Ukukhangisa i-NAP eyejwayelekile;
- Ukukhuthaza, ukuvikela kanye nokumela ukuqedwa kwazo zonke izinhlobo zobuhlanga, promoting, protecting and advocating for the eradication of all forms ukucwasa ngobuhlangaukuzondwa kwabantu bokufikakanye nokungabekezelelani okunjalo;
- Ukwenza ucwanigno ngezinto ezivimba ukutholakala ukuzwana kwezinhlanga ezahlukene;
- Ngokusebenzisana nababambi beqhaza abafaneleuzokwenza futhi aqalise izinhlelo ezahlukene ezeseka i-NAP;
- Ukuqoqa/ukuhlaziya ulwazi, ukwakha eulwazi olugciniwe kanye nokwenza imibiko ngamaphethini amaqondana nezigameko ezingena ku-NAP (Ngosizo Lobuchwepheshe i-SEJA);
- Ukukhuthaza amasu okucwaninga kanye nomyalelo wocwaningo oweseka i-NAP;
- Ukwenza isisekelo socwaningo (ngaphansi kwe-SEJA);
- Ukuqapha izigameko zobuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufikakanye nokungabekezelelani okunjalo;
- Ukuhlinzeka izimpendulo ezifanele, ngendlela yokusiza iminyango kahulumeni kanye nababambi beqhaza okufanele;
- Ukusiza kanye nokukhuthaza izinhlelo ezihambisana nokubekezelelana kanye nokuqonda ukwahlukana ebantwini baseNingizimu Afrika, kanye
- Nokuqinisekisa ukuqaliswa kwezindlela ye-M&E.

209. ukuzuzisa uhlaka lukwengamelo oluphakanyisiwe ukuthi umhlangano owodwa uhlinzeka ukubheka yonke imisebenzi; kunohlaka olulodwa olwenza izinqumo; ukumeleka kwemikhakha eminingi kuqinisekisiwe kanye nemisebenzi yokuphatha kuhlanganiswe kwaba yingxenye eyodwa.

Izibophezelo Zokubika

210. ukuphendula kanye nokuvuleleka kubalulekile ukwenza i-NAP isebenze. Njengokuba i-NAP yakhiwe ngokubambisana okuhlanganisa imikhakha eyahlukene ephakathini, imiphumela incike ekutheni uhulumeni kanye nomphakathi womthetho basebenza kahle kangakanani. Ukuqapha inqubekela phambili kanye nokubika kuyizinto ezibaluleke kakhulu ekuphumeleleni kwe-NAP. Njengomphumela, umsebenzi obalulekile ukusungula uhlaka lokuphendula. Ukuhlola umthelela wesikhathi eside, uhlaka lokwengamela lukazwelonke

ngokuhlanganiswa ne-SAHRC kanye namagatsha Esahluko sesi-9 bazosebenzisana ukubona izinkomba ukubona inqubekela phambili kwempi yokulwa nobuhlanga. Ababambi beqhaza abehlukene bazoqhubeka nokubhekana nezindaba zokucwaswa ngobuhlanga lapho kunomsebenzi ohlanganisiwe, futhi basize ekusabalaliseni ulwazi. Ukucabanga okubalulekile kumele kunikwe kulombiko wonyaka okukhulunywa ngawo esiGungwini Sikazwelonke.

Ukwakha Ngokuhambisana nesinye izinhlelo Zikahulumeni

211. U-DOJCD, ngaphansi kokuholwa nguhlaka lokwengamela oluphakanyisiwe, umsebenzi wawo kuzoba ngukwakha ukuhambisana phakathi kwe-NAP kanye nezinye izinhlelo zokusebenza ezenziwe yiminyango kahulumeni, Izikhungo Zesahluko Sesishiyagalolunye, umphakathi womthethokanye neminye imikhakha. Kumele wakhe ukuhambisana phakathi kwemithetho kanye nenqubomigomo eqaliswe nguhulumeni okunomthelela ebuhlangeni, ukucwasa kanye nezindlela zokushweleza ezithathiwe ukubhekana nomlando kahulumeni wobandlululo.

ISIPHETHO

212. INingizimu Afrika isibe ukukhanya okuhola umhlaba wonke ekulwisaneni nobuhlanga, i-NAP iwuhlelo lokwakha ngaphezu kwalokhu esesikuzuzile kuze kube yimanje. I-NAP iyithuba lezwe lethu kanye nabantu balo lokuvuselela ukuzibophezela kwethu ekulwisaneni nobuhlanga, ukucwasa ngobuhlanga, ukuzondwa kwabantu bokufika kanye nazo zonke izindlela zobandlululo kanye nokungabekezelelani. INingizimu eyabo bonke bonke abahlala kuyo – ubumbano ekwahlukaneni kwethu.