

Kunesidingo sokuxazulula zonke lezi zinkinga ezibalulwe ngenhla.

## Iqhaza Elibanjwe Yi-SAHRC

IKhomishini Yamalungelo Abantu, i-SAHRC, yinhlango ezimele esungulwa ngokoMthethosisekelo ngenhloso yokuqapha, ukuvikela kanye nokugquzela ukuqinisa amalungelo abantu kuleli zwe lethu.

INingizimu Afrika inabantu abangaphezu kwezigididi ezingama-20 abahlala ezindaweni zasemakhaya. UMthethosivivinywa Wezinkantolo Zamakhosi (i-TCB) wahlanganiswa ngaphandle kokubandakanya imiphakathi yasemakhaya kanye nokubonisana nayo. I-SAHRC yamukele izikhalo eziningi eziphathelele nokungaziswa maqondana nokuqokethwe yilo Mthethosivivinywa kanye nemiphumela yawo, okuhlanganisa ukungabonisi nayo ngesikhathi sokuhlanganiswa kwawo.

Uhlelo lwemithetho ephathelene namasiko lwase-Afrika lusemqoka empilweni yabantu abaningi abahlala kuleli zwe. Emizamweni yokubhekana nendlela yokufinyelela ebulungisweni obusisekelo sabo singamalungelo nobuhambisana nentando yabantu, njengoba bucatshangwa kuMthethosisekelo, kusemqoka ukubandakanya umphakathi kuzo zonke izinhlelo zentando yeningi, okuhlanganisa nezindawo zasemakhaya. I-SAHRC iyayemukela imithetho ephathelene namasiko, okuyimithetho ethuthukayo nehambisana nezimo ezihlanganisa amazwe omhlaba, nehambisana noMthethosisekelo wethu.

Lo Mthethosivivinywa obizwa nge-TCB, uma uba ngumthetho, ungaphelele ekwepulweni kwamalungelo abesifazane kanye nemindeni yabo. Ngenxa yomlando wohlelo lokubuswa ngabesilisa kanye nombuso wobandlululo, lo Mthethosivivinywa uzobhebhethekisa ukubandlululwa kwabesifazane.

UHulumeni unikwe amandla ngabantu, ngakho-ke kumele usebenzele abantu. Kusemqoka ukuba i-TCB ibhekane nezinkinga ezikhona kuyo. Labo abanamandla kumele balalele imiphakathi esezindaweni zasemakhaya kanti kumele benze imithetho evikela amalungelo ayo.

Nakuba i-SAHRC ingenawo amandla anele kanye nezinsiza ezanele, isebenza nezikhungo eziseSahlukweni sesi-9 soMthethosisekelo kanye nezinhlangano ezingekho ngaphansi kukahulumeni, ekusizeni imiphakathi ukuze kuqinisekise ukuthi kubhekwana nezinkinga zamalungelo abantu ekuhlanganiseni kabusha kwale TCB.

*Inhloso ye-SAHRC wukuguqula umphakathi, ukuqinisa amalungelo kanye nokubuyisa isithunzi sabantu!*

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ISIZULU



## UYINI UMTHETHOSIVIVINYWA WEZINKANTOLO ZAMAKHOSI?

Ukubuyekeza KweKhomishini Yamalungelo  
Abantu (i-SAHRC)



Ukubandakanywa Komphakathi Emhlanganweni  
WoMthethosivivinywa Wezinkantolo Zamakhosi

**Umphakathi Oguqukayo**

**Ukuqiniswa Kwamalungelo**

**Ukubuyiswa Kwesithunzi Sabantu**

## Uyini UMthethosivinywa Wezinkantolo Zamakhosi?

### Isendlalelo:

- UMthethosivinywa Wezinkantolo Zamakhosi, i-Traditional Courts Bill (i-TCB), wethulwa ePhalamende ngonyaka wezi-2008 wuMnyango Wezobulungiswa Nokuthuthukiswa KoMthethosisekelo, kanti inhloso yawo kwakuwukuhlinzeka uhlaka olusemthethweni nokwamukelwa kwezinkantolo zamakhosi kanye nemithetho ephathelene namasiko ehambisana noMthethosisekelo.
- Le nqubo yokuhlanganiswa kwe-TCB yayingenakho ukubonisana nabantu abangenawo amandla okuzivikela emiphakathi ethintekile. Kwaboniswa nabaholi bendabuko kuphela.
- I-TCB yokuqala yachithwa ngabathintekile ngenxa yezinkinga eziningi eziphathelene nenqubo namalungelo kanye nendlela ezosebenza ngayo.
- Le TCB, nalezo zinkinga zayo, yethulwa futhi eMkhandlweni KaZwelonke Wezifundazwe (i-NCOP) ngowezi-2012 ngenhloso yokunikeza izifundazwe ithuba lokuphawula ngayo, ekulalweni kwezinkulumo ezifundazweni.
- Lo Mkhandlu (i-NCOP) wehluleka ukuhola izingxoxo zokubonisana nemiphakathi yasemakhaya ngendlela eqinisekisa ukuthi bonke abantu bayakwazi ukuveza izimvo zabo ngaphandle kokwesaba nokwenzela – okuyinto ebalulekile kubantu abavame ukunganakwa uma bekhuluma.
- IKhomishini Yamalungelo abantu (i-SAHR), izinhlangano ezingekho ngaphansi kukahulumeni, kanye nabantu abathintekile bawuchitha lo Mthethosivinywa ngokwenza izethulo ezibhaliweyo nangomlomo, bazibandakanya futhi nasekulalweni kwezinkulumo ezifundazweni zabo.

### Imithetho Ephathelene Namasiko:

- ISigaba sama-211 soMthethosisekelo sihlizeka ukuthi ukusungulwa kobuholi bendabuko, isimo kanye neqhaza labo kwemukelwe kube ngaphansi koMthethosisekelo.
- Ubuholi bendabuko, ngokomlando, busemqoka ekuphathweni kwemibango nasekuxazululweni kwayo emiphakathini yasemakhaya, kusuka emazingeni aphansi kuya kwaphezulu.
- Kusemqoka ukuba indlela okulalelwa ngayo amacala enqubweni yezinkantolo zamakhosi ilethe ithemba ezinhlangathini ezithintekile.
- Imithetho ephathelene namasiko iyimithetho izakhamuzi zasemakhaya ezizisebenzisa njalo uma kunokuthile ezifisa ukukuqonda noma ukusizakala kukho, futhi ihambisana nemigomo yokwehlukahlukana ngokwamasiko emiphakathini yethu.
- Kusemqoka ukwemukela amasiko kanye nokuzama ukuqinisa amasiko akuleli. Imiyalelo ehlukeneyo ekuMthethosisekelo iyakuqinisa ukuthi, njengasemthethweni wabantu bonke (i-common law), imithetho ephathelene namasiko manje isingaphansi koMthethosisekelo futhi kumele ihambisane nawo.

## Izinkinga zalo Mthethosivinywa esibhekise kuwo manje zihlanganisa lokhu okulandelayo:

- Ukungabonisi nabantu basemakhaya ngesikhathi kuhlanganiswa lo Mthethosivinywa kanye nokubonisana okungaqondakali ngawo;
- Kudaleka izindlela ezimbili zokufinyelela emalungelweni ezobulungiswa: eyodwa ingeyabantu abahlala emihlabeni yasemakhaya; kanti enye ingeyabantu abahlala kwezinye izindawo zaseNingizimu Afrika. Lokhu kufana nohlelo lobandlululo lwezabelo;
- Lo Mthethosivinywa awunikezi thuba lokuzibandakanya nomphakathi othile. Imithetho ephathelene namasiko ayifani emiphakathini ngokwehlukana kwayo lapha eNingizimu Afrika. Lokhu kuyingxenywe yomcebo wamasiko nokuzikhethela okuhlinzeka nguMthethosisekelo wethu. Umuntu kumele akwazi ukuzikhethela ukuthi uyathanda yini ukulandela imithetho ephathelene namasiko omphakathi othile;
- Lo Mthethosivinywa uxile ezingeni lobuholi bendabuko. Ngakho-ke awuzinaki ezinye izinhlobo zamazinga kanye nezigaba ezigunyaziwe kwezemithetho ephathelene namasiko;
- Ngokwalo Mthethosivinywa abaholi bendabuko kuba yibona kuphela abangabaholi bezinkantolo zamakhosi. Lokhu kunikeza umuntu oyedwa amandla, okungaholela ekuthathweni kwezinqumo ezivuna izifiso zakhe. Lo Mthethosivinywa unika abaholi bendabuko amandla okubeka umthetho, bawusebenzise, bathathe nezinqumo emibangweni evela ngenxa yezenzo zabo zokuphatha. Ngakho-ke lo Mthethosivinywa wenza kube lukhuni ukuphonsela inselelo izinqumo ezingafanele;
- Amandla alezi zinkantolo ezicatshangwayo aqeda ukubaluleka kokuthathwa kwezinqumo okungalawulwa ngumuntu othile maqondana nokuthi ngubani okumele abekwe icala ngesikhalo esithile. Ukubekwa icala kumele kuzimele;
- Ngeke zaba khona izindlela ezicacile zokubhekana nezikhalo ezifanayo, futhi ngeke yaba khona indlela yokusho ukuthi yikuphi ukuziphatha okumele kugwenywe esikhathini esizayo. Lowo nalowo mholi wendabuko angahola ngendlela ayibona ifanele. Ngaleyo ndlela abaholi abehlukene bazosebenzisa umthetho ngezindlela ezehlukene;
- Ilungelo lendlela abesifazane abathanda ukubukeka ngayo kanye nokuvikeleka kwabo akubekwanga kwacaca;
- Amalungelo ezingane awavikelekile ngokwanele;
- Ukujeziswa kungabandakanya ukuphoqwa ukuba usebenze ngaphandle kwenkokhelo kanti kungaholela ekwepuhlweni kwamanye amalungelo, okuyosho ukwephula ilungelo

lokuphathwa ngendlela enesithunzi

- Ngaphezu kokwepuhlwa kwamalungelo asemqoka, izinqumo eziningi nokujeziswa ngeke kwedluliswa. Lokho kuyosho ukuthi abantu ngeke baba nalo ilungelo lokuba udaba lwabo lulalelwe noma lwedluliselwe enkantolo equla amacala okungewona aphaathelene nobugebengu.

### Sikuphi njengamanje?

Lo Mthethosivinywa wathunyelwa ezifundazweni kwaba nezingxoxo ngawo ngo-Ephreli nangoMeyi 2012. Kwaba khona izinkinga ngendlela okwabanjwa ngayo imihlangano yalezi zingxoxo nangabaholi bazo, ngokunikeza abantu ithuba lokukhuluma, kanye nangokuthuthwa kwabantu baye kulezi zingxoxo. Nokho ikhona imiphakathi yasemakhaya eyalisebenzisa leli thuba yaba yingxenywe yabantu abaxoxa ngalo Mthethosivinywa.

IKhomishini Yakuleli Yamalungelo Abantu (i-SAHR), kanye nabathintekile emiphakathini, yaba nemihlangano ekhuthaza ukwenza (ama-workshop) yalo Mthethosivinywa futhi babekhona ngesikhathi sezingxoxo. I-SAHR, kanye nabanye abantu, benza izethulo ezibhaliweyo nangomlomo ngalo Mthethosivinywa ekomitini lasePhalamende elibhekele ezobulungiswa kanye nokuthuthukiswa koMthethosisekelo. I-SAHR iphinde yezwakalisa izikhalo zayo ngalo Mthethosivinywa eziteshini eziningi zemisakazo yomphakathi.

IziShayamthetho zezifundazwe ziwubhekile lo Mthethosivinywa, kanti zonke, ngaphandle kwezimbili, zawuchitha kulesi simo okusona njengamanje. Lezi ezinye zawuchitha zase ziphakamisa ukuba kuchitshiyelwe imiyalelo yawo. Ikomiti loMkhandlu wezifundazwe, i-NCOP, lase lithatha isinqumo sokufaka okuthile, okungekhona okwejoyalekile kokwenziwayo uma kubhekana nezomthetho – okungukuthatha esinye isinyathelo izifundazwe ezibhekana ngaso futhi nalo Mthethosivinywa ngenhloso yokuyiqala phansi inqubo yokubonisana nokuphindela emuva ekomitini loMkhandlu i-NCOP ihlandla lesibili sezigunyaziwe.

Ngo-Agasti 2012, uNgqongqoshe Wezabesifazane, Izingane Kanye Nabantu Abakhubazekile wezwakalisa izikhalo zakhe ngalo Mthethosivinywa. UMnyango Wezobulungiswa Nokuthuthukiswa KoMthethosisekelo, okuyiwona obhekele ezalo Mthethosivinywa, wakubalula ukuthi ngeke wahoxiswa, kunalokho abamele ikomiti loMkhandlu i-NCOP bazokwenza izichibiyelo.

### Indlela Yokuxazulula Imibango Ngokwemithetho Ephathelene Namasiko

Ukuze lo Mthethosivinywa uhambisane noMthethosisekelo, kumele kuqikelelwe ukuthi uhlanganiswa ngokubonisana ngokupheleleyo okubandakanya imiphakathi yasemakhaya, ikakhulukazi abesifazane, abahlanganiswa ngendlela ekhuthaza ukubandakanywa ngokupheleleyo nebavikela bonke ekwesatshisweni.