MAYELANA NATHI

Igunya Lezokwahlulela

UMthethosisekelo uchaza kabanzi ngohlaka lwegunya lezokwahlulela eNingizimu Afrika ngalendlela elandelayo:

- Igunya lezokwahlulela leZwe libekwe ezinkantolo.
- Izinkantolo zizimele futhi zisebenza ngaphansi koMthethosisekelo kanye nomthetho, okufanele ziwusebenzise ngaphandle kokwesaba, ukwenzelela nokuchema.
- Akekho umuntu noma uhlaka lombuso olungaphazamisa ukusebenza kwezinkantolo.
- Izinhlaka zombuso, ngokusebenzisa izindlela zomthetho kanye nezinye, kufanele zilekelele futhi zivikele izinkantolo ukuze kuqinisekiswe ukuzimela, ukungachemi, isithunzi, ukufinyeleleka nokusebenza ngendlela efanele kwezinkantolo
- Umyalelo noma isinqumo esikhishwe yizinkantolo sibophezela wonke umuntu othintekayo noma izinhlaka zikahulumeni ezithintekayo.
- INhloko yamaJaji iyinhloko yezezinkantolo futhi inomsebenzi wokusungulwa kanye nokuqaphela ukugcinwa kwezimiso nemigomo ekusebenzeni kwezomthetho ezinkantolo zonke.

Indawo yeNkantolo Ephakeme YezokuDluliswa KwamaCala ohlelweni lwezobulungiswa

INkantolo Ephakeme YezokuDluliswa KwamaCala ingene esikhundleni Sophiko LwezokuDluliswa KwamaCala (Appellate Division),olwalusungulwe ngonyaka we-1910 ngesikhathi kusungulwa i-Union of South Africa [Umlando neMvelaphi]. Igama lenkantolo laguqulwa ngesikhathi kuqala ukusebenza koMthethosisekelo ngonyaka we-1996.

I-SCA iyinkantolo ephakeme yesibili eNingizimu Afrika, ngaphandle kwezimo lapho kubhekwene nezindaba ezithile zezabasebenzi kanye nezokuqhudelana kwezohwebo. Phambilini yona neNkantolo YezoMthethosisekelo bekuyizinkantolo eziphakeme ngokulinganayo kodwa zibhekene nezindaba ezihlukene. Kodwa kusukela ngoNcwaba (Augugust) wezi-2013 iNkantolo YezoMthethosisekelo yiyo esiyinkantolo ephezulu kunazo zonke ebhekana nazo zonke izindaba..

NgokoMthethosisekelo, i-SCA: -

- Ingathatha isinqumo kunoma yiluphi udaba, ngaphandle kwezinye zezindaba zabasebenzi nezokuqhudelana ngokwezohwebo, kodwa
- Yinkantolo yokudluliswa kwamacala kuphela, futhi ithatha izinqumo emacaleni adlulisiwe kanye nokunye okuxhumene nokudluliswa kwamacala.

I-SCA ingenza umyalelelo mayelana nokwamukeleka koMthetho wePhalamende, uMthetho wesifundazwe ngokomthethosisekelo noma nganoma iyiphi indlela yokuziphatha kukaMongameli, kodwa umyalelo wokungamukeleki ngokomthethosisekelo awunamandla ngaphandle uma uqinisekiswe yiNkantolo YezoMthethosisekelo. Ukwakheka, Igunya naMandla eNkantolo

I-SCA inoMongameli, iPhini likaMongameli kanye namajaji alalela amacala adlulisiwe ngokwesimiso soMthetho wePhalamende. Kuyimanje, kunamajaji angama-23 aqokwe ngokugcwele ngaphezulu kwelinguMongameli nePhini lakhe. [Amajaji eNkantolo]

I-SCA inamandla okulalela futhi inqume ngecala elidluliswe yiNkantolo Ephakeme. jIzinqumo seNkantolo zibophezela zonke izinkantolo ezingaphansi kwayo, futhi izinqumo zeNkantolo Ephakeme zibophezela zonke izinkanto zeziMantshi ngaphansi kwezimo ezithintekayo zamandla oPhiko oluthintekayo lweNkantolo Ephakeme.

IJaji elikhulu kunawo wonke elinguMongameli weNkantolo. Ngaphambi kokuba khona koMthethosisekelo, ijaji layo elikhulu laliyiNhloko yamaJaji ezwe lonke. Kodwa, ngonyaka wezi-2001 inhloko yeNkantolo YezoMthethosisekelo yaba yiNhloko yamaJaji futhi inhloko ye-SCA yaba uMongameli weNkantolo. Ikomkhulu le-SCA lise-Bloemfontein. Kodwa kukhona ukuhlinzekelwa kokuba izinhlelo zeNkantolo ziqhutshwe kwenya indawo uma kunesidingo noma kungenxa yokuqhutshwa kwezobulungiswa. Izinhlelo zeNkantolo ziqhutshwa ezweni lonke futhi izinqumo zayo kufanele zisebenze no yikuphi kufane nokuthi yizinqumo noma imiyalelo yoPhiko lweNkantolo Ephakeme noma iNkantolo yeMantshi yendawo.

Inkantolo ihlala ngendlela eba namajaji amathathu kuya kwamahlanu, ngokuncike ecaleni elidlulisiwe. UMongameli we-SCA unelungelo lokuyalela ukuba udaba olusenkantolo lulalelwe amajaji angaphezulu kwamahlanu ngenxa yokubaluleka kwalo lolo daba. Ngonyaka we-1955 kwashaywa umthetho njengenxenye yemizamo kahulumeni yokususa abavoti abangamakhaladi ohlwini lwabavotayo ukuze kuhlinzekelwe ukuthi udaba luthinta ukwamukeleka komthetho oshayiwe, amajaji eNkantolo alalela udaba abe yi-11. INkantolo yakhula ngokuba kwengezwe amanye amajaji ayi-6 emuva kwalokho isibalo samajaji sakhuliswa ngokwesidingo esikhona. Kodwa ukuhlinzekelwa kwenkantolo ebanzi okwenzeka ngokoMthetho i-Supreme

Court Act 1959 wasetshenziswa kanye ecaleni laseBophuthatswana elalidlulisiwe lapho okwahlala khona amajaji ayi-11. Kwelinye icala ngesikhathi sentando yeningi, kwahlala ayi-9. Ukwakheka kwethimba lamajaji kuyahluka ngokwezikhathi ezihlukene. Ijaji elidala kuba yilo eliyinhloko kulelo nalelo cala. Kungaba nezahlulelo ezihlukene ecaleni elilodwa uma imibono ingafani. Isinqumo seningi yiso esiba yisinqumo seNkantolo.

Amajaji nabammeli bagqoka izevatho zaseNkantolo.

Amathemu e-SCA

Amathemu eNkantolo abalulwe eMthethweni yeNkantolo ngale ndlela alandelayo:

15 kuNhlolanja (February) – 31 kuNdasa (March)

1 kuNhlaba (May) - 31 kuNhlaba (May)

15 kuNcwaba (August) - 30 kuMandulo (September)

1 kuLwezi (November) - 30 kuLwezi (November)

Ukudluliswa Kwamacala

Alikho ilungelo lokudlulisela icala ku-SCA. Kufuneka imvume yokudlulisa icala, etholakala eNkantolo Ephakeme noma, uma inqabile, ku-SCA ngokwesicelo sokudlulisa icala esifakwe kuyo. Lapho iNkantolo Ephakeme, ihlala njangenkantolo yokuqala ukulalela icala, ekugunyazeni ukudluliswa kwecala inokwaneliseka ngokuthi lelo cala lidinga ukudluliselwa ku-SCA, kufanele iyalele ukuthi ukudluliswa kwecala kulalelwe yi-SCA, kungenjalo ingayalela ukuthi icala lilalelwe yinkantolo egcwele. Lo myalelo ungabekwa eceleni yi-SCA. Uma isicelo siphikisa isinqumo seNkantolo ePhakeme, uma kudluliswa icala kufanele imvume yalokho ekhethekile itholakale ku-SCA. Lokhu kuhambelana nokudluliswa kwamacala enkantolo egcwele ngokwesinqumo senkantolo ephakeme esithathwe yijaji elilodwa kanye nesinqumo seNkantolo yeMantshi

Ukudluliswa Kwamacala Obugebengu

I-SCA iyinkantolo yokudlulisa amacala athinta ezobugebengu alalelwe yiNkantolo Ephakeme. Alikho ilungelo elizenzekelayo lokudlulisa icala, kodwa imvume youdlulisa icala iyadingeka enkantolo lapho icala lihlale khona okokuqala, noma uma kungenzeki

lokho itholakale ku-SCA. Ukudluliswa kwamacala kungumsebenzi we-SCA ngaphandle kwamacala kwlapho inkantolo egunyaza ukudluliswa kwecala yanelisekile ngokuthi lokho kudluliswa akuyidingi i-SCA. Kulezi zimo, kuyalelwa ukuba kuhlale inkantolo egcwele ukuba ilalele ukudluliswa kwecala. Lesi sinyathelo singabekwa eceleni yi-SCA Okunye ukudluliswa kwecala kusuke sekungenzeka kuphela ngemvume ekhethekile yokudlu etholakala ku-SCA. Umqondisi KaZwelonke Wezokushushiswa KoMphakathi angadlulisela icala ku-SCA ekhala ngesigwebo esikhishwe yiNkantolo Ephakeme, kodwa udinga imvume ngokuhambelana nomthetho othintekayo. Amanye amacala adlulela ku-SCA ngokwelungelo. Lokhu kuyindlela yezomthetho ekhethekile emayelana namacala ezobugebengu alalelwa yiNkantolo Ephakeme kanye nokumayelana nokungaqhutshwa ngendlela efanele noma ungaqhutshwa ngokusemthethweni kwecala okwenza ukuthi kufakwe isicelo sokudluliswa kwecala ngenxa yenqubo yecala elandeliwe.

Ukudluliselwa NguNgqongqoshe

Uma uNgqongqoshe WezobuLungiswa kanye Nezokuthuthukiswa KwezoMthothesisekelo enokungabaza ngokufaneleka kwesinqumo seNkantolo Ephakeme ecaleni lobugebengu lapho enganelisekile ngeminxa yezomthetho, noma uma isinqumo solunye Uphiko lweNkantolo Ephakeme ecaleni lobugebengu ngokwezomthetho siphambene nesithathwe olunye Uphiko lweNkantolo Ephakeme,uNgqongqoshe angadlulisele isinqumo noma izinqumo eziphikisanayo ku-SCA enzela ukuba udaba ludingidwe yileyo nkantolo ukze kube yiyo exazulula lolo daba. Uma kunokushayisana kwezinqumo emacaleni omphakathi, eziMpikweni ezihlukene zeNkantolo Ephakeme, uNgqongqoshe WezobuLungiswa kanye Nezokuthuthukiswa KwezoMthothesisekelo angadlulisela udaba koyiNhloko Yamajaji, okufanele ukuba ahlelele ukuba lolo daba ludingidwe yiNkantolo YezoMthethosisekelo noma i-SCA ukuze lusonjululwe.

Ukuqokwa Kwamajaji

Amajaji e-SCA aqokwa nguMongameli Wezwe elulekwa yiKhomishana YezokuHlinzekwa KwezobuLungiswa. UMongameli nePhini likaMongameli we-SCA baqokwa nguMongameli wezwe uma eselulekwe yiKhomishana YezokuHlinzekwa KwezobuLungiswa. Noma ngubani oqeqesheke ngendlela efanele futhi ongumuntu ofanelekile angaqokelwa ukuba yijaji. Ngokwenqubo eyayivamile, amajaji eNkantolo ayeqokwa kulawo ayengamajaji eNkantolo Ephakeme futhi kwaba namahlandla amabili kuphela ngonyaka we-1929kanye nowe-1932 lapho lenqubo ingazange ilandelwe khona. Isidingo sokuba ezezinkantolo zihambisane nokwakheka kweze

ngokwezobuhlanga nezobulili kufanele sibhekwe naso uma kuqokwa abazosebenza kulo mkhakha.

Inqubo yeNkantolo

Inkantolo ithatha izinqumo ngokubheka okuqoshiwe okwenzeke enkantolo okusuka kuyo icala elidluliswayo futhi iphinde ibheke izethulo ezibhaliwe nezethulwa ngomlomo. Ofakazi abaveli enkantolo, futhi abathintekayo abadingi ukuba babe khona ngesikhathi sokulalelwa icala elidlulisiwe. Isahlulelo esibhaliwe sivame ukwethulwa uma sekuqedwe ngezethulo zokudluliswa kwecala.

INkantolo ilalela izethulo zokudluliswa kwecala ilandela ubufakazi obuyiqiniso futhi njengoba kungekho midanti yokuqulwa kwecala, iba nethuba elivulelekile lokuzithathela isinqumo sayo. Ngenxa yalokhu, amajaji kufanele afunde konke okuqoshiwe okuyirekhodi lokwenzeke ezinkantolo eziphansi. Ngokujwayelekile, ijaji ngalinye ngonyaka labelwa amacala aqukethe ubufakazi obulinganiselwa emakhasini ayizi-30 000 kanye nobufakazi obungamazibithi. Ngaphezulu kwalokho, ijaji ngalinye labelwa izicelo zokudluliswa kwamacala ezibizwa ngamaphethishini.

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Ulwazi Olusha Lwafakwa: ngoNcwaba wezi-2023

UMLANDO NEMVELAPHI

Amandla enkantolo

Inkantolo isungulwe ngemuva kokuphela koPhiko Lwezokudluliswa Kwamacala [Appellate Division (AD)] futhi ekuqaleni yayisungulwe ngonyaka we-1910 njengenkantolo yokugcina yokudluliswa kwamacala yaseNingizimu Afrika emuva kokusungulwa kwe-Union of South Africa. Ekwakhiweni kweNkantolo yezoMthethosisekelo kanye nokushaywa komthetho u-s 166 of the Constitution, 1996 igama leNkantolo laguquka laba yiNkantolo Ephakeme YezokuDluliswa Kwamacala (i-SCA). Ekuqaleni inhloko yenkantolo kwakuyiJaji EliyiNhloko, kodwa lokho

kwaguquka ngonyaka wezi-2001 ngesikhathi inhloko yeNkantolo yezoMthethosisekelo iba yiJaji eliyiNhloko. Inhloko ye-SCA manje isibizwa ngoMongameli weNkantolo we-SCA.

Phakathi konyaka we-1994 nowezi-2013 iNkantolo yezoMthethosisekelo kanye ne-SCA kwakuyizo eziyizinkantolo ezinkulu ezazinemiklamo yazo ehlukene lapho kwakusebenza khona amandla azo, iNkantolo yezoMthethosisekelo yayibhekana nezoMthethosisekelo kanti i-SCA yona yayibhekana nakho konke okunye. Kodwa kusukela kuNcwaba (August) wezi-2013 amandla eNkantolo yezoMthethosisekelo aluliwe afinyelela nasezindabeni ezibalulekile emphakathini jikelele kuhlanganiswe kanye nezindaba zoMthethosisekelo, okuyenza ibe yinkantolo ephakeme ezedlula zonke edingida izindaba zonke. I-SCA inamandla okudingida izindaba zokudluliswa kwamacala ngaphandle kwezindaba ezithile zezabasebenzi kanye zezokuqhudelana ngokwezohwebo, ngakho iyinkantolo esendaweni yesibili ephakeme eNingizimu Afrika. Eminxeni eminingi izinqumo zayo zingumqamulajuqu ngaphansi komthetho waseNingizimu Afrika.

I-SCA ayinayo indawo lapho kuqala khona amandla ayo futhi isebenza kuphela njengenkanto yezokudluliswa kwamacala. IPhini likaMongameli lilekelela uMongameli we-SCA futhi kunezikhundla zamajaji ezigcwele ezingama-23 eNkantolo, kanye noMongameli nePhini likaMongameli.

Uhlelo lwezomthetho

Imithetho engabhaliwe kanye nebhaliwe

Umthetho waseNingizimu Afrika ‘uwuhlelo lwemithetho oluyinhlanganisela’, uhlanganise izinhlelo zomthetho ezihlukene, futhi imvelaphi yawo isuselwe ezinhlelweni zomthetho zase-Europe kanye nezomthetho ongabhaliwe zase-England. Izisekelo zomthetho ongabhaliwe okumanje obizwa ngomthetho waseNingizimu Afrika ongabhaliwe, i-Roman-Dutch law, onzimpande zawo ziku-Roman law ezathuthukiswa zaphinda zasetshenziswa e-Holland kanye nakwezinye izifundazwe zama-Dutch ngezikhathi zamakhulunyaka e-17 nele-18. Amasiko nawo abe neqhaza. Kwaba yilolu hlelo olwasebenza e-Holland lwase lwethulwa eNingizimu Afrika ngemuva kokufika kwama-Dutch eKapa ngonyaka we-1652.

Ngesikhathi sokuphathwa kweKapa ngamaNgisi, kusukela ngonyaka we-kuya 1795 kowe-1803 kwaphinda futhi nangemuva konyaka we-1806, i-Roman-Dutch law wasetshenziswa njengomthetho wezwe. Lokhu kubonakala ku-Charter of Justice yangonyaka we-1828 kanye nakweyesibili i-Charter of Justice yangonyaka we-1832. IsiNgisi saba umthetho wasezinkantolo ngonyaka we-1827 okwalandelwa ukuba

izindlela zokwethulwa kobufakazi nezinqubo ezindabeni zobugebengu nezomphakathi zisebenzise ulimi nomthetho wamaNgisi. Umthelela womthetho wesiNgisi nawo wacaca ngokusobala, kokunye ngenxa yokuthi abammeli namajaji babeqeqeshwe e-England nanokuthi futhi imithombo yawo yayitholakala kalula kwabomkhakha uma kuqhathaniswa nowesi-Latin kanye nowe-Roman-Dutch owawusebenzisa isi-Dutch esijulile owawusetshenziswa yiziphathimandla cangaphambilini. Ngezinye izikhathi amajaji e-SCA ayadinga ukuba azidingide lezi zindaba zakudala ukuze athungathe umsuka nokusabalala komthetho nendlelakucabanga endala. Ngenhlanhla umtapo wolwazi we-SCA unenqwaba yemibhalo eyimithetho yakudala, kodwa ayitholakali yonke kubameli banamuhla iningi labo elingasifundanga isi-Latin noma isi-Dutch.

Izisekelo zomthetho ongabhaliwe waseNingizimu Afrika zitholakala ezimisweni zomthetho ze-Roman-Dutch eziguqulwe futhi zahunyushwa yizinqumo zomthetho ezithathwe phambilini. Izinqumo ze-SCA zibophezela zonke izinkantolo ezingaphansi kwayo futhi nayo i-SCA ibophezelwe yizinqumo zeNkantolo YezoMthethosisekelo. Ngaphezulu kwalokhu, i-SCA izibona ibophezelekile ezinqumweni zayo ngaphandle uma iboniswa ukuthi kukhona okungahambanga kahle ngodaba obeluphambi kwayo. Izinqumo zezomthetho zingumthombo womthetho ngokwazo. Iqhaza lokuthuthukiswa komthetho ongabhaliwe lamukelwa ngokucacile kuMthethosisekelo, njengoba nesibopho sokugcina izimiso, izinjongo nezinhloso zoMqulu WamaLungelo.

Umthetho ongabhaliwe uthuthukiswa kakhulu yimithetho eshicilelwe. Umthetho waseNingizimu Afrika oshicilelwe, ulekelela noma weseka umthetho ongabhaliwe futhi uyisisekelo sokusebenza kombuso. Futhi ubaluleke kakhulu ohlangothini lwezomthetho wezobugebengu. Amacala amaningi aphambi kwenkantolo amayelana nokuhunyushwa kanye nokusetshenziswa kwemithetho eshicilelwe.

Ngenxa yokwahluka komlando womthetho waseNingizimu Afrika, ngokomthethosisekelo umsebenzi wokuba nomthetho oqhathanisayo uholela ekubeni kubhekwe njalo nomthetho wangaphandle kwezwe, kungahlosiwe ukuba ube ngobophezelayo kodwa njengonika umhlahlandlela ngokomthetho.

Okungaphezu kwalolu hlaka lwezomthetho nguMthethosisekelo, okuyiwo olinganisela yonke imithetho ukuze kutholakala inhlalanjalo futhi okuyiwo onomthelela ekubhalweni kwemithetho.

Umthetho wesintu

Umthetho wesintu wendabuko uyingxenye ebalulekile yomthetho waseNingizimu Afrika njengayo yonke eminye imithetho nawo ungaphansi koMthethosisekelo futhi udinga ukuhambisana nezimiso kanye nezinkambisomgomo zomthethothosisekelo.

Ukhuluma ngezinhlelo zezomthetho ezathuthukiswa emiphakathini ehlukene njengengxenye yamasiko nosikompilo ngokuhambelana nokwakheka kanye nokuphathwa kwaleyo miphakathi kanye nobudlelwano babantu bakhona. Unokubaluleka kakhulu uma kukhulunywa ngezindaba zomndeni, ukuganiselana, izipho zokuganiselana, umshado wesintu, izindaba zezingane, ubuzali nokunakekelwa kwezingane, amafa, ezomhlaba, nezindaba zomphakathi. Lokhu kokugcina kuthinta nezindaba ezithinta ubuholi bomdabu nokugcotshwa kwamakhosi nezinduna.

Umthetho womhlaba

Noma yisiphi isivumelwano somhlaba siba ngumthetho wezwe uma senziwa umthetho kazwelonke. Umthetho womhlaba wesintu ungumthetho ezweni ngaphandle uma ungahambisani nezimiso zoMthethosisekelo noma uMthetho wePhalamende. Uma kuhunyushwa umthetho oshicilelwe, yonke inkantolo kufanele yamukele zonke izihumusho zomthetho ezihambelana nezimiso zomthetho womhlaba ngaphezulu kwanoma yikuphi ukuihunyushwa kwawo okungahambisani nomthetho womhlaba.

Iminyaka eyikhulu yomlando

1910-1948

Ngaphambi kokusungulwa kweNyunyana yaseNingizimu Afrika ngowe-1910 ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo ezivela ezinkantolo eziphakeme zamakoloni aseKapa, eNtilasifali (eyaphenduka ikholoni ngowe-1902) neNatali, zaziqondiswe ngokuqondile eMkhandlwini wezoMthetho Oweluleleka uMbuso ngesikhathi izinqumo zezinkantolo eziphakeme zaseMpumalanga Kapa kanye nase-Griqualand West kwakufanele zidluliselwe kuqala eNkantolo Ephakeme YezokuDluliswa Kwamacala yaseKapa kanye nalawo ayevela eKoloni yase-Orange River (nokuyindlela okwakubizwa ngayo iFreyistata lapho iba yikoloni) eNkantolo Ephakeme Yezokudluliselwa Kwamacala yaseNtilasifali ngaphambi kokuthi kufakwe izicelo zokubuyekezwa kwezinqumo zenkantolo kuMkhandlu WezoMthetho Oweluleka uMbuso. Isidingo senkantolo yokudluliselwa kwamacala sokulalela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zezinkantolo ezivela ezinkantolo ezihlukahlukene zaseNingizimu Afrika, okunomkhawulo kuphela ngokuphathelene nokuholela kulokho ngemva kwalokho kuye eMkhandlwini WezoMthetho Oweluleka

uMbuso, kwaba nomuzwa kusukela ngowe-1905 lapho inkomfa yabameli-jikelele eyayise-Bloemfontein iphakamisa ukuthi kubekwe inkantolo yaseNingizimu Afrika. Phakathi neseshini yeNgqungquthela kaZwelonke kaLwezi we-1908, eyayiqhutshelwa eKapa, kwaxoxwa ngomthethosisekelo wenkantolo ephakeme yezokudluliswa kwamacala. Yamukela isiphakamiso sika-Sir James Rose Innes kanye no-Sir William Solomon sokuthi iNkantolo isungulwe futhi kufanele ibe neJaji EliyiNhloko kanye namajaji amabili avamile (asebenza ngokugcwele) abhekelela ufakwa kwezicelo zokubuyekezwa kwezinqumo zenknatolo kanye namajaji amabili engeziwe (angasebenzi ngokugcwele) abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zezinkantolo azoba amalungu esinye sezigaba zesifundazwe. Lolu hlaka lwafakwa kuMthetho weNyunyana yaseNingizimu Afrika, 1909 nokuyilapho iNyunyana yaba khona ngaphansi kwawo.

Lowo Mthetho uma nje iSigaba Sokubuyekeza Izinqumo zeNkantolo (AD) sasiyinkantolo yokugcina yokufaka izicelo zokubuyekezwa kwezinqyumo zenkantolo eNingizimu Afrika. Kodwa-ke, lokhu bekungaphansi kwelungiselelo lokonga ukuthi ukuba khona kwe-AD akuzange kuphazamise amandla eKomidi Lokwehlulela loMkhandlu WezoMthetho Oweluleka uMbuso ngokuphathelene nokulalela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo ezivela kulo ngekhefu elikhethekile elinikezwe yiBhodi. Ngokombono okungenani i-AD yayiyinkantolo yokufakwa kwezicelo zokubuyekezwa kwezinqumo zezinkantolo ephakathi nendawo kwaze kwaba yilapho kuqedwa ukufakwa kwezicelo zokubuyekezwa kezinqumo zenkantolo zoMkhandlu WezoMthetho Oweluleka uMbuso nguMthetho Wokubuyekezwa Kwezinqumo ZeNkantolo 16 ka-1950. Nokho, lokhu ikakhulukazi kwakungumbono nje njengoba kwakungavamile ukuthi kube khona imvume ekhethekile yezomthetho yokubuyekezwa kwesinqumo senkantolo. Amarekhodi, nakuba engaphelele, abonisa izihlandla eziyishumi kuphela zzokufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo ezivela ekwehlulelweni kweSigaba Sokubuyekeza Izinqumo zeNkantolo. Ezintathu zalezi zazingamacala ayevela e-Southern Rhodesia (manje esiyingxenye yeZimbabwe) ngesikhathi ukufakwa kwezecelo zokubuyekezwa kwezinqumo zenkantolo ezivela enkantolo yaleyo koloni ziphumelela ku-AD, futhi ezimbili kuphela kuzo zonke eziye zaphumelela. Kuzo zonke izinhloso ngakho-ke IsiGaba Sokubuyekeza Izinqumo zeNkantolo sasiyinkantolo yokugcina yokufakwa kwezicelo zokubuyekezwa kwezinqumo zezinkantolo eNingizimu Afrika futhi leso sikhundla saqinisekiswa ngowe-1950 ngokuqedwa kokufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo kuMkhandlu WezoMthetho Oweluleka uMbuso.

Kusukela kuNyunyana ngowe-1910 kuze kube ngu-1955 i-AD yayiyinkantolo ephakeme kunazo zonke yokudluliswa kwamacala okungenani ezindabeni ezithile ze-Southern Rhodesia yaphambilini (manje esiyingxenye yeZimbabwe) njengoba yayiphinde ibe ngeye-South West Africa kusukela ngowe-1918 kuze kube ngu-1990,

lapho ekugcineni yazimela njenge-Namibia. Ilahlekelwe amandla enkantolo okwesikhashana ezingxenyeni ezithile zaseNingizimu Afrika lapho izifundazwe ze-TVBC (i-Transkei, i-Venda, i-Bophuthatswana ne-Ciskei) zisungula izinkantolo zazo zokugcina zokufaka izicelo zokubuyekezwa kwezinqumo zenkantolo. Ngokuhlanganiswa kabusha kwezwe ngowe-1994 isikhundla salo njengenkantolo eyinhloko yokufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo ezivela kulezo zindawo kwabuyiselwa esimweni.

IJaji EliyiNhloko lokuqala kwakungu-Sir Henry de Villiers owayeyiJaji EliyiNhloko laseKapa kusukela ngowe-1873 futhi owayengamele okwakudingidwa kuNgqungquthela kaZwelonke ngowe-1908 okwaholela esivumelwaneni sokusungula kweNyunyana. Ekuqokweni kwakhe njengeJaji EiliNhloko lokuphakanyiselwa kuhlelo lokwaziswa ngokuphathelene nobukhosi lokuba yilingu lophiko oluphansi lobukhosi bamaNgisi (baronetcy) wase eba u-Lord De Villiers wase-Wynberg. Amajaji avamile okubuyekezwa kwezinqumo zenkantolo kwakungu-Sir James Rose Innes, owayeyiJaji EliNhloko laseNtilasifali, kanye no-Sir William Solomon, naye owayevela ethimbeni lamajaji laseNtilasifali. Amajaji engeziwe abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo kwakungungoMongameli bamaJaji ababesanda kuqokwa beziGaba zesiFundazwe zaseKapa kanye naseNtilasifali, uChristian George Maasdorp noJacob Abraham Jeremy (Jaap) de Villiers. Lapho u-Lord de Villiers eshona ngowe-1914 uSir James Rose Innes wakhushulelwa esikhundleni sokuba yijaji eliyinhloko kanti u-C G Maasdorp waba yijaji elivamile lokubhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo. U-Sir Henry Juta, iJaji EliNhloko laseKapa (indodana yabasunguli benkampani yokushicilela izincwadi zemfundo kanye nezomthetho owaziwayo nomshana kaKarl Marx ohlangothini lukanina) waqokwa njengejaji elengeziwe ngokuphathelene nokufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo. U-Lord de Villiers kwakuwukuphela kwejaji laseNingizimu Afrika elake lahlala kuMkhandlu WezoMthetho Oweluleka uMbuso. Nakuba abaningana balabo abamlandela njengeJaji EliyiNhloko baqokwa kuMkhandlu WezoMthetho Oweluleka uMbuso, abazange babizwe ukuze basebenze eKomidini LamaJaji loMkhandlu WezoMthetho Oweluleka uMbuso.

Ngokuphathelene namacala avela enkantolo enamajaji amabili noma ngaphezulu kwakudingeka ukuthi kuhlale wonke womahlanu amalungu enkantolo, kuyilapho kwezinye izimo kwakudingeka isibalo esincane ngokusemthethweni samajaji amathathu. UMthetho wesiGaba Sokubuyekeza Izinqumo zeNkantolo 12 ka-1920 wandisa inani lamajaji (avamile) abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo lisuka kwamabili laya kwamane futhi kwaqedwa izikhala zomsebenzi zamajaji engeziwe okubhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo. Amajaji amabili engeziwe abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo ngaleso sikhathi, kwakuwu-Jacob de Villiers

no-Sir Henry Juta, baba ngamajaji asebenza ngokugcwele abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo. Ngowe-1922 ngenxa yokuthatha umhlalaphansi kuka-C G Maasdorp indawo yakhe yathathwa ngu-Sir John Kotzé kwase ngonyaka olandelayo, ngokuthatha umhlalaphansi kuka-Sir Henry Juta, u-Sir John Wessels wahlanganyela enkantolo. Amalungu eNkantolo ngaleso sikhathi, o-Innes CJ, uSolomon, uJ de Villiers, uKotzé no-Wessels JJA baye babizwa ngokuthi 'ochwepheshe abahlanu abaqeqeshiwe kakhulu emthethweni wamaRoma namaDashi eNingizimu Afrika' ngaleso sikhathi.

Umthetho waseNingizimu Afrika ka-1909 wahlinzekela ukuthi isihlalo seNkantolo sibe seBloemfontein kodwa ukuthi, 'ukuze kube lula kwabacela usizo lwenkantolo', ukuhlala kwenkantolo kwakungaqhutshelwa kwezinye izindawo zeNyunyana. U-Lord De Villiers akazange ayenze imfihlo indaba yokuthi wayengakuthandi ukukhethwa kweBloemfontein njengekomkhulu lezomthetho, futhi u-Sir James Rose Innes naye wayecabanga ukuthi kwakube yiphutha lokhu ngenxa yezizathu ezimbili. Okokuqala, kwandisa ubunzima ngokuphathelene nokubekwa kwabasebenzi beNkantolo futhi, okwesibili, kwandisa izindleko zokuthethwa kamacala.

Ngowe-1910 IsiGaba Sokubuyekeza Izinqumo zeNkantolo yabhekelela lokhu ngokwenza amakomkhulu ezifundazwe, alalela izikhalazo eBloemfontein, ePitoli naseMgungundlovu, kodwa wahlala ngokuyinhloko eKapa. Ngowe-1911 iNkantolo yahlala kabili phakathi namaseshini amafushane eBloemfontein, kodwa ngokujwayelekile yayihlala eKapa. Lokhu kwaphindwa ngowe-1912. Abantu baseFreyistata babethukuthele kakhulu futhi lokhu kwaholela ekutheni kufakwe isigatshana kuMthetho Wokuthethwa Kwamacala 27 ka-1912 ohlinzeka ngokuthi izicelo zokushintshwa kwendawo yokukulalelwa ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo kufanele zilalelwe kuphela eBloemfontein nokuthi ukulalelwa kokufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo kwenye indawo ngaphandle kwaseBloemfontein ngeke kubhekwe njengokulula kunoma ubani wanoma yimuphi ocela usizo lwenkantolo ngaphandle uma kunezimo ezihlukile ezivumela lokhu. Lokhu okuzwakaliswayo kwanikezwa ukutolikwa ngendlela enqala. Nakuba kwengenzwa ukuhlinzekelwa kwalokhu kumphumela wokuthi ngenkathi u-Lord De Villiers eyiJaji EliyiNhloko izicelo zokushintsha indawo zazingalalelwa kunoma iyiphi indawo yeNyunyana, ngowe-1913 nangowe-1914 ngaphambi kokushona kwakhe wahlala elalele ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo eziningana eBloemfontein.

Zimbalwa kakhulu izicelo zokuthi inkantolo ihlale kwenye indawo ezavunyelwa phakathi kuka-1912 no-1933. Isizathu esivamile sokuvumela izicelo ezinjalo ukuthi amacala awakwazanga ukulalelwa ngesikhathi sokuhlala kwenkantolo noma ukuthi ayebandakanya izigwebo zentambo. Kwaqubuka impikiswano ngowe-1933 lapho

amajaji evumela ukufakwa kwesicelo sokubuyekezwa isinqumo senkantolo esivela endaweni eyayibizwa ngeSouthern Rhodesia ngaleso sikhathi ukuba silalelwe eKapa. Isicelo sokubuyekezwa kwesinqumo senkantolo kwakulindeleke ukuthi sibe side futhi sisidinga ukulalelwa ngaphandle kwesikhathi sokuhlala kwezinkantolo. Ngaphandle kwezinkinga zokuhlela owayefake isicelo sokubuyekezwa kwesinqumo senkantolo wazwakalisa ukuthi uGraham Mackeurtan KC, umeluleki oholayo, owayenempilo ebuthaka, wayengeke akwazi ukumelana ‘nezinyanga ezishisayo zasehlobo zikaZibandlela, uMasingana kanye noNhlolanja’. Ekwehluleleni ngokuphathelene nokuvumela isicelo sokubuyekezwa kwesinqumo senkantolo kulezi zinyanga bekubizwa ngokuthi ‘yizinyanga ezishisa kakhulu futhi ezivivinya kakhulu onyakeni’ futhi ‘njengesikhathi lapho izakhamuzi ezisengcupheni zidinga khona, uma izimo zazo zivuma, zifuna ukuyozipholisa ngeholide ogwini’. Kwaqhubeka ukuphawula ukuthi IsiGaba SesiFundazwe saseFreyistata sasihlele imigomo yaso ngendlela yokugwema ukuhlala kwenkantolo phakathi nalezo zinyanga lapho isimo sezulu ‘sasimandla khona’.

Abantu baseFreyistata babeziqhenya kakhulu ngesimo seBloemfontein njengekomkhulu lezomthetho futhi babephikisana ngokuqinile nanoma yisiphi isinqumo esasisusa ukuhlala kweNkantolo kude nedolobha. Isinqumo sokulalela lolu daba eKapa salahlwa kakhulu uMkhandlu Wedolobha, i-Chamber of Commerce yendawo kanye noMkhandlu weThimba lamaMmeli wendawo. I-The Friend, iphephandaba lansuku zonke elalishicilelwa eBloemfontein, lashicilela incwadi ebhalwe umuntu ongaziwa, eqinisweni eyayibhalwe uMongameli wamaJaji waseFreyistata, uFritz Krause. Yayihlanganisa okulandelayo: ‘Njengomuntu omdala waseBloemfontein ngifisa ukubhalisa umbhikisho wami, kanye nabanye abantu abaningi basedolobheni lethu, ngokumelene nesinqumo esingavamile nesingenangqondo seNkantolo YokuDluliswa Kwamacala sokushintsha indawo yokuqulwa kwecala liye eKapa ngenxa yezimo zesimo sezulu okusolwa ukuthi zenzeka lapha phakathi nezinyanga zasehlobo… Uma kunamajaji angathandi ukuhlala noma ukuhlala lapha okwesikhashana, empeleni, mawavele afake izicelozawo zokwesula ezikhundleni. Baning abantu abanekhono abangakwazi ukwenza lo msebenzi … Izizathu zempilo ezibhekelelwe yinkantolo, ngokombono wami, ziyizizathu ezingathi shu ezifana nokucasha ngesithupha.’ U-T W Mackenzie, umhleli we-The Friend, wacelwa ukuthi avele phambi kweNkantolo ukuze abonise isizathu sokuthi kungani kungafanele atholakale enecala lokudelela inkantolo ngokushicilela le ncwadi. U-Mackenzie wayalwa ukuba ashicilele ukuxolisa okuvunyelwene ngakho futhi akhokhe inhlawulo yopondo abangamashumi amahlanu. Kodwa ambalwa kakhulu amacala akamuva aye alalelwa ngaphandle kwaseBloemfontein.

Ubukhulu benkantolo abuzange bushintshe kwaze kwaba ngu-1948 lapho kuphasiswa umthetho onika amandla uMbusi-Jikelele ukuba aqoke amajaji

amaniningi abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo njengoba kubonakala kudingekile. Leli nani lenyuswa ngokufanele laba yisithupha ukuze lenze iNkantolo ikwazi ukusingatha ukwanda komthwalo womsebenzi okwakulindeleke ngemva kokwelulwa kwamandla ayo ngokuphathelene nezicelo sokubuyekezwa kwezinqumo zenkantolo ngokuphathelene namacala obugebengu, njengoba manje yayivunyelwe ukulalela izicelo zokubuyekezwa kwezinqumo zenkantolo ngokuphathelene nokungamaqiniso, hhayi ngezizathu zomthetho kuphela. Ngalesi sigaba ukwakheka kwenkantolo kwase kushintshe kakhulu. U-EF (Billy) Watermeyer wayeyiJaji EliNhloko, ehleli no-Centlivres, Tindall, Schreiner no-Greenberg JJA. U-FP 'Toon' van den Heever, isazi ngokuphathelene nomthetho wamaRoma namaDashi nembongi evelele yesiBhunu, waqokelwa esihlalweni esisha enkantolo. Eminyakeni engamashumi amane nantathu kamuva indodakazi yakhe, uLeo van den Heever, waba ngowesifazane wokuqala ukuqokwa eNkantolo. Okuyisehlakalo esisodwa kuphela sokuthi kungene ingane esikhundleni somzali, u-G G (Gus) Hoexter waqokwa ku-AD ngowe-1982. Uyise, u-O H (Oscar) Hoexter wayeqokwe ngowe-1949 esikhundleni sika-Tindall JA. U-Rumpff CJ wayengumukhwe kaHarms JA.

Amajaji angama-20 asebenza eNkantolo phakathi nenkathi ka-1910 – 1948. Abaningi babo babengongoti abavelele ababhala ukwehlulela emacaleni okwacacisa umthetho, bafuzelela ukuthuthukiswa kwawo futhi basacashunwa nanamuhla. Babenethonya elikhulu ezimisweni eziyisisekelo zesimiso sezomthetho saseNingizimu Afrika, okungekho odlula uSir James Rose Innes, owaziswa kabanzi njengomunye wamajaji angefaniswe, uma kungekona nje ukuthi ungovelele, kwabakhiqizwe yileli zwe. Ngokungavamile kuleli zwe, ngemva kokuthatha umhlalaphansi wabuyela ekuphileni impilo yasemphakathi ukuze akhankasele ukukhikisana nemizamo kahulumeni wase-Hertzog yokususa amalungelo angokomlando e-franchise ayethokozelwa abaMnyama esiFundazweni saseKapa. Enkulumweni yakhe eyayibikezela okwakuzokwenzeka wathi:

'Ngesikhathi esifushane kakhulu, kuzodingeka sibhekane neqembu elikhulu [labantu abamnyama] abamfundo yabo ibasize ukuthi baqonde ukubaluleka kwesimo sezepolitiki abasinqatshelwe, futhi ivuselele ukuzimisela kwabo ukusithola, futhi bazozizwa bethukuthele ngenxa yezikhalazo, ezomnotho kanye nezokuphatha ezizoqongelela lapho ingxenye eyodwa yabantu iphucwa lawo malungelo okuvota atholwa yizakhamuzi zakubo.

Ngicela ukubuza ukuthi, ingabe kucatshangwe kahle yini ngokuphathelene nalokhu okuphokophelwe, ngokuphathelene nokucindezela leli ningi elinezikhalazo futhi elithukuthele? Ngoba – masingalenzi iphutha – kuzofika kulokho ekugcineni. Lokhu akukona nje ukwenqatshwa kwenkululeko; kuyindaba yokuphuca inkululeko ebilokhu

ithokozelwa isikhathi eside. Leyo nqubo, noma ngabe ifihliwe kangakanani, iyisenzo sokuphambuka okuncike emandleni kodwa amandla awazixazululi izinkinga zabantu. Umuntu angacabanga ukuthi eNingizimu Afrika ngeke kube nesidingo sokugcizelela lelo qiniso. Kodwa-ke, singakhohlwa ukuthi, lapho sibhekene nale nkinga, ukuthi awukwazi ukubulala umphefumulo wabantu; nokuthi umoya womuntu ngeke uvumele ukulahlekelwa amalungelo awazisayo ngokwezinto ezibonakalayo nangokomoya.

INingizimu Afrika imi lapho izindlela zihlukana khona. Ingase athathe indlela yokucindezela, kulula ekuqaleni ngezinga layo elishona phansi, kodwa iholela egodini – hhayi esikhathini sethu, kodwa esikhathini senzalo yethu, okuyisibopho sethu esingcwele ukuqapha lokho ezikufisayo.

Elinye ijaji elabuyela ekuphileni impilo yasemphakathini kwakungu-Tielman Roos, owayeqokwe ku-AD, ngokuqondile ePhalamende, lapho ayekade enguNgqongqoshe Wezobulungiswa kusukela ngowe-1924 kuya ku-1929. Washiya esikhundleni seNkantolo ukuze aphinde aqalise umsebenzi wakhe wezepolitiki futhi ekugcineni aphumelele umkhankaso wokuba iNingizimu Afrika ishiye indinganiso yokungefaniswe. Kodwa amathemba akhe okuba uNdunankulu awazange agcwaliseke futhi washona eminyakeni emithathu kamuva esebuyele emsebenzini wakhe kuThimba labammeli. UBeyers JA weza enkantolo evela emphakathini ngesikhathi uJacob de Villiers CJ eshona. Wayengasebenzi eThimbeni labammeli iminyaka eminingana futhi wayenguNgqongqoshe Wezimayini ngaphambi kokuthatha umhlalaphansi ngenxa yezizathu zempilo. Ngokusobala kwaba nokumelana nokuqokwa kwakhe amajaji ayehlezi ezikhundleni nenkantolo. Wayeyijaji lokuqala elabhala ukwehlulela kwenkantolo ngesiBhunu. NjengoRoos wabuyela kwezombusazwe ngemuva kokuthatha umhlalaphansi njengomuntu ozongenela ukhetho lweqembu likaMalan i-Herenigde Nasionale Party, okuyiqiniso elifaka intshisekelo esinqumweni sakhe ecaleni likaWilken v Brebner ngowe-1935 AD 175.

1948-1994

Ukwandiswa kwamalungu eNkantolo ngowe-1948 kwahambisana nokukhethwa kukahulumeni weNational Party kanye nokuqaliswa kwenqubomgomo yobandlululo. Ngemva nje kwalokho kwaba khona ingxabano yomthethosisekelo lapho iNkantolo nohulumeni wangaleso sikhathi bexabana khona okwabangelwa ukwethulwa komthetho wokususa labo ababizwa ngokuthi 'amakhaladi' ohlwini lwabavoti oluvamile esiFundazweni saseKapa.

Ngowe-1952 iNkantolo yabhekana nesivivinyo esikhulu lapho ukubaluleka koMthetho Wokumela Abavoti Ngokuhlukile uphonselwa inselele. Lo Mthetho waphasiswa ukuze kususwe abavoti abangamaKhaladi esiFundazweni saseKapa ohlwini lwabavoti oluvamile esiFundazweni saseKapa. Ku-Harris v Minister of the Interior (1) iNkantolo yanquma ukuthi yize iPhalamende liphakeme futhi libusa, lokhu akusho ukuthi likhululekile ukwemukela noma iyiphi inqubo lapho kumiswa umthetho omusha. Amalungelo abavoti abangamakhaladi ayesekelwe kuMthetho waseNingizimu Afrika futhi ukuze iPhalamende lisuse leli lungelo, umthetho kwakudingeka uphasiswe ngeningi eliphindwe kabili kwabathathu leziNdlu zombili zePhalamende ekuhlaleni kwazo ngokuhlanganyela. I-National Party ayikwazanga ukuthola iningi elinjalo futhi le nqubo ayilandelwanga ekushayweni koMthetho Wabavoti. Ngaleso sizathu umthetho oshayiwe wabekwa eceleni. IPhalamende laphendula ngokushaya umthetho owakha 'inkantolo' entsha - 'iNkantolo Ephakeme yePhalamende', equkethe wonke amalungu ePhalamende - ngenhloso yokubuyekeza ukwehlulela kweSigaba Sokubuyekeza Izinqumo zeNkantolo lapho umthetho kwakuthiwe awusebenzi khona. I-AD yamemezela ngazwi linye ukuthi lo Mthetho awusebenzi ku-Harris v Minister of the Interior (2).

Ngowe-1955 iPhalamende landisa amaLungu oMkhandlu ngeningi elilula ukuze kufinyelelwe eningini elidingekayo ekuhlaleni ngokuhlanganyela kweZindlu zombili zePhalamende. Ngaphambi kwalokhu, umthetho wawunikeza ukuthi isinqumo se-AD mayelana nokuba semthethweni kufanele sinqunywe yinkantolo yamajaji ayishumi nanye. Kwaqokwa amajaji amahlanu engeziwe abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo; amaLungu oMkhandlu andiswa kwathi ngowe-1956 uMthetho Wabavoti waphasiswa ngeningi elidingekayo. Kamuva ngalowo nyaka iNkantolo eyandisiwe yakhiwa ngamajaji ayisishiyagalombili ayengazange ahlale ekulalelweni kwecala laphambilini futhi uSchreiner JA kuphela owaphikisana nalokhu, wenqaba ukumemezela uMthetho njengongekho emthethweni okwaholela ekutheni abavoti abangamakhaladi basuswe ohlwini lwabavoti abavamile esiFundazweni saseKapa. Lesi siqephu sangcolisa isithombe seNkantolo, ikakhulukazi njengoba kwakunombono wokuthi uhulumeni wayefake iThimba lamajaji amesekayo.

Lowo mbono wanda ngenxa yokwenqaba kukahulumeni ukuqoka uSchreiner JA, ijaji elikhulu enkantolo ngemuva kweJaji EliyiNhloko, ukuba athathe isikhundla sikaCentlivres CJ lapho lo mholi ethatha umhlalaphansi ekupheleni kuka-1956. Kunalokho yaqoka uFagan JA, owayengomncane ngokwesikhundla kubona bobabili oSchreiner noHoexter. Wayewukuphela kwelungu lenkantolo elingazange libe yingxenye yezinqumo ngokuphathelene nokulalelwa kwecala likaHarris. Ukuze senze ubulungiswa kuye kuye wemukela kuphela ukuba sesikhundleni ngemva kokubonisana noSchreiner JA. Eminyakeni emibili kamuva lapho uFagan CJ ethatha umhlalaphansi, uSteyn JA, owayengumeluleki omkhulu wezomthetho wesifundazwe

futhi okuwukuphela kwelungu lenkantolo elingakwenqabeli ukwandiswa kwayo, waqokwa njengeJaji EliyiNhloko. UFagan wabe esengenela kabusha ezombusazwe ukuze akhankasele izinqubomgomo zohlanga zeNational Party. Omunye umhlaziyi uchaze uSchreiner JA, ngokuthi 'yiJaji EliyiNhloko eliyingqayizivele iNingizimu Afrika engakaze ibe nabo'.

Kusukela ekuqaleni kwawo-1960 kuze kube sekuqaleni kwawo-1990, lapho i-ANC ingasavaliwe khona futhi kuqala izingxoxo mayelana nentando yeningi, i-AD yabhekana nezicelo zokubuyekezwa kwezinqumo zenkantolo eziningi ezazifuna ukubuyekeza izenzo zokuphatha kanye nezokwengamela ngaphansi komthetho wobandlululo, imithetho yokuphepha eyayiqine kakhulu, kanye naphakathi nawo-1980, izimo ezimbili zokumemezelwa kwezwe njengelisesimweni esibucayi. Kwakufakwe izicelo eziningi zokubuyekezwa kwezinqumo zenkantolo ngokuphathelene namacala obugebengu ezivela emthethweni ofanayo. Indlela encane yokufinyelela kububanzi obuvunyelwe bokubuyekezwa kwezomthetho kanye nendlela encane efanayo nengokoqobo yokwakhiwa komthetho yahlukanisa ukwehlulela kwayo. Ngokuhambisana nokuziphendulela ngokweqile embonweni wokubusa kwephalamende, lokhu kwenza kwaba nzima kakhulu ukufaka izinselele zomthetho ezenzweni zikahulumeni ezisebenzisa izinqubomgomo zobandlululo kanye nomthetho wezokuphepha. Ngaphandle kokumbalwa ukwehlulela kwenkantolo okuwumphumela kwenza okuncane ekuqhubekiseleni phambili amalungelo abantu futhi izimiso eziningi ezivulekile zomthetho wamaRoma namaDashi zahlanekezelwa kule nqubo. INkantolo yayivame ukugxekwa ngokukhetha ngamabomu incazelo evuna uMbuso ezimweni lapho kwakukhona khona ukwakhiwa okunokulingana kakhudlwana. Abahlaziyi bezomthetho bakamuva ngokuvamile banombono ongemuhle ngerekhodi layo kulezi zindawo ngalesi sikhathi.

Ukugxekwa okunjalo kufanele futhi kuyabonakala. Njengoba elinye ijaji eliyinhloko eliyibambela laphambili labhala ngenkantolo ukuthi: 'Isithombe salo somphakathi sasibhidlikile lapho ubandlululo luphela'. Naphezu kwalokhu kwehluleka kumele futhi kuqashelwe ukuthi lo kwakungewona ukuphela komsebenzi owabandakanya i-AD phakathi nale nkathi kanye nakweminye imikhakha yomthetho nalapho yaba khona negalelo elibalulekile. U-Toon van den Heever JA wayeyisazi sezemfundo esangena sajula eziphathimandleni ezindala zomthetho wamaRoma kanye nowamaRoma namaDashi. Abanye abalandela indlela efanayo, njengowe-Steyn, Rumpff, Jansen, Rabie, Joubert, Van Heerden, Hefer no-Nienaber babenekhono lokuphenya leyo mithombo yomthetho. Ukwehlulela kukaTrollip emkhakheni wezomthetho wezentengiselwano nempahla engumqondo womuntu othile kuhlala kuyizimpawu zomlando. UCorbett, uMiller noHolmes babhala ngokucace kakhulu emikhakheni eminingi futhi uHolmes wayengungcweti emabinzaneni angenakukhokhlweka. Ezindaweni eziningi iNkantolo yaphinde yahlola, yanweba, yashintsha noma yasusa izimiso ezindala ngokuvumelana nezidingo zomphakathi oguqukayo. Kwezinye izimo

lokhu kwakuqondiswe ekuphunyukeni ezimisweni zomthetho waseNgilandi ezazibanjwe ezindaweni zomthetho ezinjengecala lobugebengu, ukukhohliswa, ukuqinisekiswa kobulungiswa (estoppel) kanye nokuphazamiseka, kodwa kwezinye izindawo, ikakhulukazi umthetho wezentengiselwano nempahla engumqondo womuntu othile, kwakuthenjelwe emthethweni waseNgilandi kanye nakwezinye izinhlelo zomthetho zakwamanye amazwe ekusebenziseni kokuqala komthetho wokuqhathanisa. Esanduleleni sentuthuko yomthethosisekelo yakamuva, ngaphansi kukaCorbett CJ i-AD yandisa ububanzi bokubuyekezwa kokwahlulela, okuthonywe ikakhulukazi okwakwenzeka eNgilandi. Kwenziwa umzamo kwezinye izimo wokugcizelela kabusha izimiso ezikhanyiswe kakhudlwana zomthetho wamaRoma namaDashi. Eziningi zezisekelo ezibekwe phakathi naleso sikhathi zihlala ziqinile enkathini yamanje yomthethosisekelo.

Mhlawumbe igama lokugcina ngaphansi kwalokhu kwaziswa ngokuyinhloko kufanele kunikezwe uChaskalson CJ, inhloko yokuqala yeNkantolo yoMthethosisekelo, owathi ngowe-1989:

‘[T]hina sizoqaphela ukuthi sikweleta kakhulu amajaji ethu ohlelo lwakudala... ngandlela thile ... bagcine izimiso zenkululeko kanye nobulungiswa ziphila emthethweni wezinqumo zamajaji [wamaDashi aseRoma]. Umqondo wokuthi inkululeko kanye nokulunga kuyizimfanelo ezingokwemvelo umthetho ophila kuzo… Leli yifa elibalulekile futhi ekufanele lingancishiswa noma libhubhudlwe.’

Ukusukela ngowe-1994 kuze kube manje

Ukusungulwa kweNkantolo YezoMmthethosisekelo kwakuwukuphela koshintsho olukhulu loMthethosisekelo Wesikhashana ka-1993 ngokuphathelene nohlaka lwamajaji. Uhlaka oluvele lukhona lweNkantolo Ephakeme YezokuDluliswa Kwamacala, esine-AD eyinhloko, sagcinwa sinjalo. Ngaphambi koMthethosisekelo ka-1996, iNkantolo yezoMthethosisekelo kanye ne-AD kwakha iziqongo ezimbili zohlaka lokwehlulela, ezinomugqa oqinile wokwahlulela obuhlukanisayo. INkantolo YezoMthethosisekelo yayinikwe igunya lamandla enkantolo elikhethekile ezindabeni zomthethosisekelo futhi yanikezwa amandla okukhipha umthetho kanye nokuziphatha kwesigunggu esiphethe. I-AD yaqhubeka nokuba yinkantolo yokugcina ngokuphathelene nokufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo kuzo zonke ezinye izindaba, kodwa yayingenalo igunya lamandla enkantolo ezindabeni zomthethosisekelo. Njengoba wawungekho umugqa ohlukanisa kahle ngobunono umthethosisekelo ngokuphathelene ‘nezinye’ izindaba, kwakusobala ukuthi lolu hlaka lunezinkinga. Isibonelo, ukuhlukaniswa kokubuyekezwa kokwahlulela

njengodaba lomthethosisekelo ngokuphelele kwakusho ukuthi kususiwe amandla enkantolo angakomlando e-AD ngokuphathelene nokubuyekezwa kokwahlulela.

Le nkinga yaxazululwa ngaphansi koMthethosisekelo ka-1996. I-AD, manje ebizwa kabusha njengeNkantolo Ephakeme YezokuDluliswa Kwamacala, yathola amandla omthethosisekelo, kuyilapho iNkantolo YezoMthethosisekelo yanikezwa amandla okusungula umthetho wezinqumo zamajaji ukuze ubonise izindinganiso zomthethosisekelo. I-SCA, kanye neZinkantolo Eziphakeme, yanikezwa amandla okususa ngokuphathelene nokuziphatha kukamongameli, iMithetho yePhalamende kanye neMithetho yesiFundazwe, kuncike ekuqinisekisweni kwemiyalo yayo evela eNkantolo YezoMthethosisekelo. Kuyadingeka futhi ukuthi iNkantolo, lapho kutolikwa umthetho noma kuthuthukiswa umthetho wezinqumo zamajaji, ukuba ikhuthaze umoya, yethule umqondo othile kanye nezinto zoMqulu Wamalungelo. Lokhu kwaletha inkathi entsha yokwahlulela ngokomthethosisekelo egxile kuMthethosisekelo kanye nezimiso kanye nezindinganiso ezifakwe kuwo.

Ukungabikho kokuhlukaniswa ngobunono phakathi kwezinkinga zomthethosisekelo kanye nezingezona ezomthethosisekelo, okuye kwabangela izinkantolo izinkinga eziqhubekayo kusukela ngowe-1994, kwaqhubeka nokubangela ukudideka: iyiphi inkantolo eyayiyinkantolo eyinhloko ngempela ngokuphathelene nanoma yiluphi udaba oluthile? Ngokushesha kwaba sobala ukuthi uhla olubanzi lwamalungelo kanye nokuqinisekisiwe ngaphansi koMthethosisekelo, kuhlangene nendlela yeNkantolo yezoMthethosisekelo yokutolika enomusa kanye nokwethula umqondo othile, kwaba nomphumela wokuthi cishe noma yiliphi icala lingabonakala njengokuphakamisa udaba lomthethosisekelo. Njengoba iNkantolo YezoMthethosisekelo yayithatha isinqumo sokugcina sokuthi ngabe udaba luyinkinga yomthethosisekelo yini, iqiniso laliwukuthi, ngaphandle kwezimo ezilinganiselwe, kwakuyinkantolo yokuggcina ngokuphathelene nokuthatha izinqumo ebizwa phecelezi ngokuthi yi-de facto apex. Lokhu kwaqashelwa ngowe-August 2013 lapho uMthethosisekelo uchitshiyelwa ukuze kuhlinzekelwe ukuthi iNkantolo YezoMthethosisekelo iyinkantolo ephakeme kunazo zonke eNingizimu Afrika, nakuba ingase ilalele kuphela izindaba zomthethosisekelo kanye nezindaba eziphakamisa iphuzu eliphikisanayo lomthetho obaluleke kakhulu emphakathini.

Ngesikhathi esifanayo umthetho olawula ukwakheka kwezinkantolo (uMthetho WeNkantolo Ephakeme ka-1959) wahoxiswa futhi kwangena endaweni yawo uMthetho Wezinkantolo Eziphakeme ka-2013. Lokhu bekuhloselwe ukwenza isimo senkantolo yezwe sibe sengqondo futhi sihambisane noMthethosisekelo. Ngenxa yalokho, i-SCA manje isiyaziswa ngokomthetho emthethweni olawulayo njengenkantolo ehlukile futhi iNkantolo Ephakeme isiyinkantolo eyodwa eyakhiwe yizigaba eziningana. Olunye ushintsho oluphawulekayo olwalethwa uMthetho

Wezinkantolo Eziphakeme kwakuwukudluliselwa kokuphathwa kwezinkantolo zisuka eMnyangweni Wezobulungiswa Nokuthuthukiswa Komthethosisekelo (njengoba wakwaziwa ngaleso sikhathi) ziye eHhovisi leJaji EliyiNhloko elalisanda kubekwa.

Ngowe-1994 wonke amajaji e-AD ayemhlophe futhi oyedwa kuphela (uLeo van den Heever) owayengowesifazane. Njengezwe, inkantolo yayibhekane nenqubo yoshintsho. Ngesikhathi sokubhala lokhu ngabantu abangamashumi amabili nambili ababeqokelwe enkantolo kusukela ngowe-1994 ababengabantu abamnyama kanti abayishumi bebengabesifazane. IJaji EliyiNhloko lokuqala elalingekho mhlophe kwakungu-Ismail Mahomed, owafika ku-SCA esengomunye wamajaji okuqala eNkantolo YezoMthethosisekelo kanye nePhini likaMongameli wayo. Kuyadabukisa ukuthi isikhathi sakhe sokuba sehhovisi yafinyezwa ukugula kanye nokushona kwakhe ngowezi-000. Ngowezi-008 u-Lex Mpati waba nguMongameli omnyama olandelayo we-SCA futhi uMongameli wamanje, uMandisa Maya, wangena esikhundleni sakhe ngemuva kokuba yilungu lenkantolo kusukela ngowezi-005. Wehluke ngokuba ngowesifazane wokuqala ukuba yinhloko yale nkantolo. Iningi lamajaji e-SCA amanje limnyama, okwenza inkantolo ibonise kakhudlwana ukwehluka kwezinhlobo zabantu bonke.

Phakathi nalokhu kungaqiniseki kanye nokuba yinkimbinkimbi ngokuphathelene nendawo elawulwayo kanye nesigaba esiphezulu, i-SCA enkathini yentando yeningi, yomthethosisekelo inikeze ukwehlulela okuningi okuveza ngokucacile izindinganiso zoMthethosisekelo wethu kuyilapho zibonisa okungcono kakhulu komlando wendawo elawulwayo kanye nalokho iNkantolo ehlangabezene nakho. Indima edlalwa umkhakha wezomthetho waseNingizimu Afrika kusukela ngowe-1994 iqinisekisile ukuthi inkantolo ezimele ibalulekile ekubuseni ngentando yeningi. I-SCA iyaqhubeka nokudlala indima yayo kulokhu, ichaza izimfuneko zoMthethosisekelo ngendlela efanele, ngokuzimisela kanye nangokungaguquguquki. Ngesikhathi esifanayo iyaqhubeka nokudlala indima yayo ebalulekile njengenkantolo eyinhloko yokudluliselwa kwamacala eNingizimu Afrika ebhekelele ukubonakaliswa okuqhubekayo kanye nokuthuthukiswa komthetho.

Ngaphezu kwamajaji ahlala njalo e-SCA, nganoma yisiphi isikhathi kunamajaji amaningana angamabambela abhekelela ukufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo akhethwe ukuba asebenze enkantolo avela ezigabeni zeNkantolo Ephakeme ukuze agcwalose izikhala zesikhashana, njengalapho amajaji ahlala njalo ngokuphathelene nezicelo zokubuyekezwa kwezinqumo zenkantolo esekhefini noma esebenza njengamajaji angamabambela asebenza eNkantolo YezoMthethosisekelo. Amajaji asebenza ngokugcwele ngokuphathelene nezicelo zokubuyekezwa kwezinqumo zenkantolo cishe ngaso sonke isikhathi bathathwa

ohlwini lwalabo abaye baba basebenza njengamajaji angamabambela ngokuphathelene nokufakwa kwezicelo zokubuyekezwa kwezinqumo zenkantolo.

Isakhiwo seNkantolo

Kusukela ngowe-1910 inkantolo yayisebenzisa igumbi nendawo ehambisana namakamelo e-Raadsaal, isakhiwo esingaphesheya komgwaqo u-President Brand Street empumalanga yesakhiwo samanje. I-Raadsaal yasetshenziswa umkhandlu wezomthetho eKoloni yase-Orange River kusukela ngowe-1907 kuya ku-1910 futhi iNyunyana yaba yisihlalo somkhandlu wesifundazwe. Manje iyisihlalo sesishayamthetho sesifundazwe saseFreyistata. Ngowe-1929 iNkantolo yathuthela esakhiweni samanje, esavulwa mhla ziyi-10 kuMfumfu ngowe-1929 nguNgqongqoshe Wezobulungiswa, u-Oswald Pirow KC. Emcimbini uJacob de Villiers, owayesebenza njengeJaji EliyiNhloko ngemva kokushona kuka-Sir William Solomon, wathi izinkantolo kuyo yonke indawo ‘zimile phakathi kwesihloko kanye nomgodi ongenamkhawulo.’

Lapho umcimbi usuphelile uPirow wanikezwa ukhiye wegolide avula ngawo umnyango wesakhiwo esisha seNkantolo. Encwadini yakhe yezinkumbulo, i-Brushes with the Law, uMarius Diemont JA, owayesengumuntu omusha ngosuku lokuvulwa kweNkantolo, ulandisa ukuthi eminyakeni eminingi kamuva, lapho evela njengomeluleki omncane no-Pirow, bobabili baya eNkantolo ukuyosebenzisa umtapo wolwazi kodwa bathola umnyango ukhiyiwe. UPirow, eshaya lokhu indiva, wathi: ‘Ngavula lesi sakhiwo eminyakeni engama-20 edlule lapho nginguNgqongqoshe Wezobulungiswa. Nali igama lami etsheni legumbi futhi ukhiye oseketangeni lami lwewashi ungukhiye abanginika wona.’ Kodwa ukhiye wawushintshiwe futhi ukhiye awuzange uwuvule umnyango. Isakhiwo seNkantolo sanwetshwa ngowe-1967 lapho kwakhiwa khona igumbi lesibili lenkantolo kanye namagumbii ezokwehlulela engeziwe. Ukunwetshwa kwesibili kanye nenkantolo enkulu entsha kanye namagumb ezokwehlulela engeziwe kanye nendawo yehhovisi labasebenzi abangonobhala kanye nabacwaningi kwaqedwa ngowezi-011.

Isakhiwo sokuqala sadizayinwa esaziwa phecelezi ngokuthi yi-free Renaissance nguJ S Cleland, uMdwebi Wezindlu Oyinhloko kaHulumeni (Chief Government Architect), owayegalelo nakwezinye izakhiwo eziningi ezinkulu zomphakathi eNingizimu Afrika. Ingxenye endala yakhiwa ngetshe lesihlabathi elivela e-Ladybrand, iphiko elisha elisentshonalanga elinetshe lesihlabathi elivela eFicksburg, futhi ukwandiswa kwakamuva kunetshe lesihlabathi elivela eMookgophong eLimpopo. Esikhathini ngasinye, ukwandiswa kwezakhiwo ukuze kulondolozwe isitayela kanye nokubukeka kwesakhiwo ngangokunokwenzeka.

Ifenisha nokufakwa kwamatshe odongeni okubizwa phecelezi nge-wall cladding emagumbini amabili enkantolo okuqala kanye nomtapo wolwazi kunge-stinkwood (ocotea bullata), isihlahla somdabu esiyivela kancane futhi esibalulekile. Ngenhla kwendawo yokungena eyinhloko futhi okubhalwe etsheni, ngamazwi kaJacob de Villiers, ibambela leJaji EliyiNhloko laseNingizimu Afrika, ekuvulweni kwenkantolo: '… Isigqoko sokuzivikela Sokholo, esifanekisela ukholo olusheshayo lwesizwe ebulungiseni kanye nasemandleni omthetho; Izikhiye Zokukhululwa Ekubusweni ngonya, lapho kungekho khona umthetho; kanye nelambu lezobulungiswa elibizwa phecelezi nge-Lamp and the Torches of Truth'. Ukubhekisela Esigqokweni Sezikhali Zokholo kubonakala kubhekisela encwadini kaPawulu eya kwabase-Efesu lapho ebanxusa khona ukuthi bagqoke zonke izikhali zikaNkulunkulu ezihlanganisa 'isigqoko sokuzivikela sensindiso'. Indawo yokungena eseningizimu inekhanda likaMinerva, unkulunkulukazi wamaRoma wokuhlakanipha nomvikeli wobuciko kanye nesayensi, bese indawo yokungena esenyakatho, inoJupiter, inhloko yethimba lonkulunkulu bamaRoma.

Kwakuthenjwa ukuthi inkantolo entsha nayo ingahlotshiswa nge-stinkwood. Lokhu bekungenakwenzeka njengoba bekunenkinga yangempela yokuthi bekungeke kube namanani anele okhuni ukuze kuhlangatshezwane nezidingo zephrojekthi njengoba isihlahla manje sesibhekwa njengezinhlobo ezisengcupheni yokushabalala. Ngakho-ke esikhundleni sayo kwasetshenziswa i-Imbuia, ukhuni lokuhlobisa olusezingeni eliphakeme olubukeka ngendlela efanayo. Lesi sakhiwo sasiyisiKhumbuzo sikaZwelonke ngaphansi komthetho waphambilini futhi manje siyiNdawo Yamagugu Kazwelonke.

Egumbini elingaphansi leNkantolo kunezinqolobane zenkantolo lapho kugcinwa khona amarekhodi awo wonke amacala alalelwa eNkantolo kusukela ngowe-1910. Lena ingcebo yomlando ecebile elinde ukuhlolwa yizazi zomlando womthetho.

Umtapo wolwazi

Uhleli esitezi esiphezulu sesakhiwo, uMtapo wolwazi ngokwayo usemazingeni amabili. Umtapo wolwazi wokuqala wawunegumbi elilodwa elinama-alcove nhlangothi zombili, kanye ne-gallery ephezulu. Umtapo wolwazi manje unwetshiwe kakhulu, futhi unephiko elengeziwe elakhiwa yilokho okwakungamagumbi amajaji phambilini.

I-gallery ephezulu yoMtapo wolwazi izungeze igumbi eliphakathi nendawo, futhi ubekwe maphakathi nodonga ngalunye lwezindonga ze-gallery ezine kuneziphandla zezikhali zeziFundazwe ezine zeNyunyana yaseNingizimu Afrika yaphambilini. Amashalofu enziwe nge-Burmese Teak futhi phansi kwakhiwe ngamabhulokhi e-stinkwood.

Umtapo wolwazi uhlalisa imiqulu elinganiselwa kuzi-43 000, lapho izihloko ezingaba yizi-4 000 ’zingeziphathimandla zakudala' eziqukethe, ngokwengxenye enkulu, imibhalo yezazi zezomthetho yamaDashi kanye neyaseZwekazini yeminyaka yekhulu le-16, le-17 nele-18. Imisebenzi emibili emidala emitatsheni yezincwadi yomibili eyangowe-1544. Lezi yizincwadi ziwumsebenzi ophelele kaBartolus (1313-1357) ezinemiqulu eyishumi kanye nalezo zomfundi wakhe, uBaldus (1327-1400). Ibhalwe ngesiLatini, inikeza ukuphawula nge-Corpus Juris Civilis yoMbusi waseRoma uJustinian. Enye into eyingqayizivele yi-Tractatus Universi Juris, ehlanganiswe ekupheleni kweminyaka yekhulu le-16 ngokomyalelo kaPapa Gregory. Le misebenzi ayiyona nje eyentshisekelo yakudala. Ngenxa yesimo esiyingqayizivele ‘seziphathimandla zakudala’ ohlelweni lwezomthetho lwaseNingizimu Afrika, kusaboniswana nazo futhi ngezinye izikhathi kubhekiselwa kuzo ezinqumweni zeNkantolo.

UMtapo wolwazi uphinde ube neqoqo eliphelele lezincwadi zaseNingizimu Afrika kanye nokusabalala okufana kahle kwemibiko yenkantolo yamaNgisi nabantu baseMelika kanye neyamazwekazi, izincwadi zezemfundo kanye namaphephandaba ezomthetho. Okwamanjeuizama ukuthuthukisa ukuqoqwa kwayo kwemisebenzi yomthethosisekelo kanye neyamazwe omhlaba.

Kuyisiko ukuthi izifundiswa zinikele ngamakhophi ezincwadi zazo ezingokomthetho emtapweni wolwazi. Nakuba umtapo wolwazi ngokuyinhloko usetshenziselwa amajaji eNkantolo, abasebenzi bocwaningo nabo bayakwazi ukufinyelela kuwo, njengamalungu omsebenzi wezomthetho, kanye nomphakathi, ngaphansi kwezimo ezinokuvinjelwe.

Inqolobane yezithombe

Ephasishi eliholela emtapweni wolwazi kulenga izithombe zamajaji ayimhloko kanye namajaji amaningi eNkantolo kusukela yasungulwa ngowe-1910. Kunemidwebo kanye nemifanekiso ebunjiwe yezikhondlakhondla eziningi zezomthetho zesikhathi esidlule, okuhlanganisa eyamajaji ayinhloko amahlanu okuqala aseNingizimu Afrika.

Okukhulu kakhulu ehholo elidala lokungena, ezitebhisini,kunomfanekiso ka-Lord de Villiers (1873-1914), ijaji eliyinhloko lokuqala leNyunyana yaseNingizimu Afrika. Umuntu onamandla futhi onesithunzi esikhulu, wanikela kakhulu kuwo wonke umsebenzi wakhe wokwahlulela weminyaka engama-40ngokuphathelene nokwakhiwa komthetho waseNingizimu Afrika. UMoses Kottler, umbumbi womsebenzi wezobuciko odumile waseNingizimu Afrika, wabaza lomfanekiso. Okunye futhi okulenga ezitebhisini yizithombe zika-Sir James Rose Innes, u-Sir William Solomon kanye no-Sir John Wessels.

Owathatha esikhundleni ngemuva kuka-Lord de Villiers kwakungu-Sir James Rose Innes (1855-1942) okunomdwebo wakhe ezitebhisini kanye nasemtapweni wolwazi. Wayedume ngokufunda kwakhe kanye nangokubeka kucace bha ngokuphathelene nokwehlulela kwakhe. Kuthiwa wathatha umhlalaphansi ngaphambi kwesikhathi ukuze enze umngani wakhe wempilo yakhe yonke kanye nozakwabo, u-Sir William Henry Solomon (1852-1930) ukuze asebenze ithemu njengejaji eliyinhloko. Umfanekiso ka-Sir William nawo useMtapweni wezincwadi futhi, njengaleyo yomngani wakhe, yaqoshwa ngu-E Grace Wheatley. Umfanekiso kalowo owathatha izintambo kuSolomon, uJacob de Villiers (1868-1932), uqoshwe nguMoses Kottler, nawo usemtapweni wezincwadi. Walimala futhi waboshwa ngesikhathi seMpi yamaBhunu, wayeyisiboshwa sezempi eBermuda. Umuntu ukuba khona kwakhe okwakudonsa amehlo, ukuba sesikhundleni kwakhe njengejaji eliyinhloko, njengalowo ayethathe kuye izintambo, sasifushane futhi sigcwele impilo engeyinhle kahle.

Kukhona nomfanekiso ka-Sir Johannes (John) Wessels (1862-1936) kuMtapo wolwazii, lona wenziwa ngu-Anton van Wouw. Wayengomunye wamajaji ayekhombisa ukufunda ngokwengeziwe kanye nolwazi olusabalele kakhulu. Umuntu okwazi ukubhekana nezimo ezahlukene, onobuhlakani obuvelele kanye nolwazi olumangalisayo embonini, ngayo yonke indlela futhi, wayenetshisekelo yokuphawula ngaphandle kokulinda futhi abuye angakwazi ukubekezela eThimbeni lamajaji. Yileso seluleko esaphawulwa, ngemva kwesicelo sokubuyekezwa kwezinqumo zenkantolo, ukuthi: “Sinikeze iJaji EliyiNhloko ukulalelwa kwecala ngendlela efanele.”

Umsebenzi wokwahlulela ka-Sir John Gilbert Kotzé (1849-1940) wathatha iminyaka engama-50 kusukela ekuqokweni kwakhe ngowe-1877, lapho eneminyaka engama-27 kuphela yobudala, kwaze kwaba yilapho ethatha umhlalaphansi ngowe-1927. Njengejaji eliyinhloko leRiphabhulikhi yaseNtilasifali waxoshwa nguMongameli

uKruger lapho ethi izinkantolo zinelungelo lokuhlola ngokumelene noMthethosisekelo, futhi zimemezele ukuthi izinqumo kanye nemithetho eshaywe yisishayamthetho azikho semthethweni. Kwakuzothatha iminyaka engaphezu kwekhulu ngaphambi kokuba izinkantolo zaseNingizimu Afrika zithole lelo gunya ngaphansi koMthethosisekelo. Isazi sezemfundo esidumile, indoda eyayifunda kakhulu futhi eyaqoqa izincwadi, iqoqo lakhe lezihloko eziyi-1556, elathengwa uhulumeni ngowe-1927 ngowe-£800, lakha umnyombo womtapo wolwazi owawusafufusa ngaleso sikhathi weSigaba Sokubuyekeza Izinqumo zeNkantolo. umfanekiso wakhe, nawo owaqoshwa ngu-E Grace Wheatley, itholakala neqoqo.

Eminye imifanekiso amane awamalungu enkantolo aphambilini ame emnyango womtapo wolwazi. ULeopold Greenberg (1885-1964) (oqoshwe nguJack Penn) wayeyijaji elibhekelela izicelo zokubuyekezwa kwezinqumo zenkantolo kusukela ngowe-1943 ukuya ku-1955. Wayedume ngekhono lakhe elingefaniswe lokubeka imibono yakhe icace, ukubeka kwakhe okuthile kucace kanye nobuhlakani bakhe obuyingqayizivele. Ababili ababephila ngesikhathi sakhe kwakungu-Oliver Deneys Schreiner (1890-1980) (oqoshwe nguNaomi Jacobson) no-F P (Toon) van den Heever (1894-1956) (oqoshwe nguLaura Rautenbach). USchreiner wayeyijaji elibhekelele izicelo zokubuyekezwa kwezinqumo zenkantolo kusukela ngowe-1945 kuya ku-1960. Wayehlonishwa kakhulu njengejaji futhi wayezoba, kodwa ngenxa yezimo zezombangazwe ezazidlangile, ngokungenakugwenywa ubelokhu eyijaji eliyinhloko. UVan den Heever, indoda eyayinamakhono amaningi, naye udume njengembongi yesiBhunu. Okokugcina, kunomfanekiso weJaji EliyiNhloko uL C Steyn (1903-1976) (eqoshwe nguDaniella Geldenhuys). Waqokwa njengejaji elibhekelela izicelo zokubuyekezwa kwezinqumo zenkantolo ngowe-1955 kanye nanjengejaji eliyinhloko ngowe-1959, lapho asebenza khona kwaze kwaba yilapho eshesha ukuthatha umhlalaphansi ngowe-1971.

Kwelinye lezimpiko oMtapo wolwazi, kunomfanekiso obunjiwe kaTielman Roos (1879-1935)(eqoshwe nguJoseph Coplans) enikelwe ngumndeni wakhe. Ephasishi elingaphandle komtapo wolwazi kunesithombe seJaji EliyiNhloko uMahomed, ngokufanayo esinikelwe ngumndeni wakhe.

AbabengamaJaji AyiNhloko Ophiko LwezokuDluliswa Kwamacala

1910 - 1914 : Lord de Villiers of Wynberg (Washona esasesikhundleni mhla zi-2 September 1914.)
1914 - 1927 : Sir James Rose Innes (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1910.)
1927 - 1929 : Sir William H Solomon (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1910.)
1929 - 1932 : Jacob A J de Villiers (Additional Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1910 and Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1920. (Washona esasesikhundleni 16 September 1932.)
1932 - 1936 : Sir J W Wessels (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1923. Washona esasesikhundleni end 1936.)
1936 - 1938 : J S Curlewis (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1927.)
1938 - 1939 : J Stratford (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1927.)
1939 - 1943 : N J de Wet (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1937)
1943 - 1950 : E F Watermeyer (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1938)
1950 - 1957 : A van der Sandt Centlivres (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1939)
1957 - 1959 : H A Fagan (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1950.)
1959 - 1971 : L C Steyn (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1955.)
1971 - 1974 : N Ogilvie Thompson (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1958.)
1974 - 1982 : F L H Rumpff (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1961.)
1982 - 1989 : P J Rabie (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1970.)
1989 - 1996 : M M Corbett (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1974.)
1997 - 2000 : I Mahomed ((Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1996. Washona esasesikhundleni 17th June 2000)
2000 - 2001 : H J O Van Heerden (Acting Chief Justice) (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1982.)
2001 : J J F Hefer (Ijaji EliyiNhloko Eliyibamba) (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1984.)

AbabengoMengameli WeNkantolo Ephakeme YezokuDluliswa Kwamacala

2002 - 2003 : J J F Hefer (UMengameli Oyibamba)
2003 - 2008 : C T Howie (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1993)
2008 - 2016 : L Mpati (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka wezi-2000)
2016 - 2022: M M L Maya (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka wezi-2005. Waba yibamba kusukela ngonyaka wezi-2016 kuya kowezi-2017; Waqokwa njengePhini LejajiEliyiNhloko ngonyaka wezi-2022)
2023 kuze kube manje: M B Molemela (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka wezi-2018)

AbabengamaPhini OMengameli BeNkantolo Ephakeme YezokuDluiswa Kwamacala

2003 - 2008 : L Mpati (owaphetha ngokuba nguMengameli WeNkantolo)
2008 - 2011 : L T C Harms (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1993)
2012 - 2014 : K K Mthiyane (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka wezi-2001)
2015 : M S Navsa (eyibamba)
2015 - 2017 : M M L Maya (owaphetha ngokuba nguMengameli WeNkantolo)
2017 - 2018 : J B Z Shongwe (eyibamba)
2019 - 2024 : X M Petse (waba ngumengameli Oyibamba ngonyaka wezi-2022)
2024 – Washona esasesikhundleni : D H Zondi (Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka wezi-2014)

Amajaji EzokuDluliswa Kwamacala kusukela ngonyaka we-1910

1910 - 1922: C G Maasdorp (Ijaji Elengeziwe LezokuDluliswa Kwamacala kusukela ngonyaka we-1910 and Ijaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1915)
1914 - 1923 : Sir Henry H Juta (Ijaji Elengeziwe LezokuDluliswa Kwamacala kusukela ngonyaka we-1910 neJaji LezokuDluliswa Kwamacala kusukela ngonyaka we-1920.)
1922 - 1927 : Sir John G Kotzé
1929 - 1932 : T J de V Roos
1932 - 1937 : F W Beyers
1933 - 1939 : Sir Etienne de Villiers
1938 - 1949 : B A Tindall
1939 - 1944 : R Feetham
1943 - 1955 : L Greenberg
1945 - 1961 : O D Schreiner

1948 - 1956 : F P (‘Toon’) van den Heever
1949 - 1963 : O H Hoexter
1955 - 1960 : E N de Beer
1955 - 1957 : F G Reynolds
1955 - 1957 : H de Villiers
1955 - 1957 : C P Brink
1955 - 1956 : C G Hall
1956 - 1968 : D O K Beyers
1958 - 1976 : P J van Blerk
1958 - 1959 : A B Beyers (Waqokwa njengeJaji elinguMengameli laseKapa,ngowe-1958)
1959 - 1960 : A C Malan
1959 - 1961 : W H Ramsbottom (Washona esasesikhundleni)
1961 - 1965 : D H Botha (Washona esasesikhundleni)
1961 - 1963 : L J de V van Winsen (Wabuyela eKapa)
1961 - 1967 : J T van Wyk (Waqokwa njengejaji lesikhashana eNkantolo yoMhlaba kwaze kwaba ngonyaka we-1966. Wabe esebeuyela eKapa waba yiJaji elinguMengameli ngowe-1973)
1961 - 1977 : G N Holmes
1962 - 1967 : A Faure-Williamson (Washona esasesikhundleni)
1963 - 1984 : P J Wessels
1965 - 1973 : H J Potgieter (Washona esasesikhundleni)
1968 - 1988 : E L Jansen
1969 - 1981 : W G Trollip
1971 - 1984 : G V R Muller
1974 - 1978 : S Hofmeyr
1975 - 1976 : O Galgut
1976 - 1977 : J N C de Villiers
1976 - 1985 : G P C Kotzé
1976 - 1985 : S Miller
1977 - 1982 : M A Diemont
1977 - 1995 : C P Joubert
1978 - 1986 : J J Trengove
1980 - 1985 : P M Cillié
1980 - 1988 : G Viljoen
1982 - 1994 : G G Hoexter
1982 - 1996 : A S Botha
1983 - 1985 : H C Nicholas
1985 - 1986 : W G Boshoff
1985 - 1988 : H R Jacobs
1985 - 1998 : E M Grosskopf
1985 - 2002 : J W Smalberger
1986 - 1997 : H H Nestadt
1986 - 2003 : W Vivier

1988 - 1990 : M T Steyn
1988 - 1996 : M E Kumleben
1988 - 1994 : J P G Eksteen
1988 - 1993: A J Milne (Washona esasesikhundleni)
1988 - 2001 : F H Grosskopf
1990 - 1991: G Friedman (Waqokwa njengeJaji elinguMengameli waseKapa, we-1991)
1990 - 1994: R J Goldstone (Waqokelwa eNkantolo YezoMthethosisekelo, wezi-1994)
1990 - 2002 : P M Nienaber
1991 - 1996 : L van den Heever
1993 - 2008 : C T Howie
1993 - 1994: J C Kriegler (Waqokelwa eNkantolo YezoMthethosisekelo, we-1994)
1995 - 2004 : R M Marais
1995 - 2003 : P J J Olivier
1995 - 2004 : W P Schutz (Washona esasesikhundleni)
1995 - 2008 : D G Scott
1996 - 2007 : R H Zulman
1996 - 2000 : C Plewman
1997 - 2010 : P E Streicher
2000 - 2009 : I G Farlam
2000 - 2008 : E Cameron (Waqokelwa eNkantolo YezoMthethosisekelo, wezi-2008)
2000 - 2022 : M S Navsa
2002 - 2015 : F D J Brand
2002 - 2013 : R W Nugent
2002 - 2007 : J H Conradie
2003 - 2012 : T D Cloete
2003 - 2019 : C H Lewis
2003 - 2012 : J A Heher
2004 - 2013 : B J van Heerden
2004 - 2025 : V M Ponnan
2005 - 2009 : C N Jafta (Waqokelwa eNkantolo YezoMthethosisekelo, wezi-2009)
2005 - 2010 : D Mlambo (Waqokwa njengoMengameli waseGauteng, wezi-2010)
2007 - 2008 : P C Combrinck
2007 - 2021 : A Cachalia
2009 - 2014: S Snyders (Washona esasesikhundleni)
2009 - 2016: N Z Mhlantla (Waqokelwa eNkantolo YezoMthethosisekelo, ngowezi-2016)
2009 - 2013 : F R Malan
2009 - 2018 : L O Bosielo (Washona esasesikhundleni)
2009 - 2018 : J B Z Shongwe
2009 - 2020 : L E Leach

2009 - 2019 : Z L Tshiqi (Waqokelwa eNkantolo YezoMthethosisekelo, ngowezi-2019)
2010 - 2017: L V Theron (Waqokelwa eNkantolo YezoMthethosisekelo, ngowezi-2017)
2010 - 2019 : S A Majiedt (Waqokelwa eNkantolo YezoMthethosisekelo, ngowezi-2019)
2010 - 2019: L W Seriti
2011 - 2021: M J D Wallis
2012 - 2024 : X M Petse (iPhini likaMengameli ngowezi-2019)
2013 - 2018 : N P Willis
2013 - 2023: H K Saldulker
2014 - 2020: K G B Swain
2014 - 2022: B H Mbha
2014 - kuze kube manje: D H Zondi (iPhini LikaMengameli ngowezi-2024)
2015 - 2026: N Dambuza
2015 - 2021: R Mathopo (Waqokelwa eNkantolo YezoMthethosisekelo, ngowezi-2021)
2016 - 2023: C H G van der Merwe
2016 - kuze kube manje: B C Mocumie
2018 - kuze kube manje: T M Makgoka
2018 - kuze kube manje: M B Molemela
2018 - kuze kube manje: A Schippers
2019 - 2026: F E Mokgohloa (Washona esasesikhundleni)
2019 - 2022: C M Plasket
2019 - 2022: D V Dlodlo
2019 - kuze kube manje: C H Nicholls
2019 - kuze kube manje: Y T Mbatha
2021 - 2024: T R Gorven
2021 - 2024: Z Carelse (Waqokelwa eNkantolo YezoMhlaba ngowez-2024)
2021 - 2026: S P B Mothle
2021 - kuze kube manje: W Hughes
2021 - 2024: N P Mabindla-Boqwana (Waqokelwa eNkantolo ePhakeme yase-WC , ngowezi-2024)
2022 - kuze kube manje: P A Meyer
2022 - kuze kube manje: M K Matojane
2022 - 2026: S E Weiner
2022 - kuze kube manje: G Goosen
2022 - kuze kube manje: D E Molefe
2023 - kuze kube manje: M A Kgoele
2023 - kuze kube manje: F Kathree-Setiloane
2024 - kuze kube manje: J E Smith
2024 - kuze kube manje: R M Keightley
2024 - kuze kube manje: D N Unterhalter
2024 - kuze kube manje: P A Koen

2024 - kuze kube manje: E Baartman
2024 - kuze kube manje: P Coppin
2026 - kuze kube manje: T V Norman
2026 - kuze kube manje: B Vally
2026 - kuze kube manje: L Windell

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Ulwazi Olusha Lwafakwa: mhla zingama-26 kuNcwaba wezi-2026

Inqubo yeNkantolo

Inkantolo ithatha izinqumo ngokubheka okuqoshiwe okwenzeke enkantolo okusuka kuyo icala elidluliswayo futhi iphinde ibheke izethulo ezibhaliwe nezethulwa ngomlomo. Ofakazi abaveli enkantolo, futhi abathintekayo abadingi ukuba babe khona ngesikhathi sokulalelwa icala elidlulisiwe. Isahlulelo esibhaliwe sivame ukwethulwa uma sekuqedwe ngezethulo zokudluliswa kwecala.

INkantolo ilalela izethulo zokudluliswa kwecala ilandela ubufakazi obuyiqiniso futhi njengoba kungekho midanti yokuqulwa kwecala, iba nethuba elivulelekile lokuzithathela isinqumo sayo. Ngenxa yalokhu, amajaji kufanele afunde konke okuqoshiwe okuyirekhodi lokwenzeke ezinkantolo eziphansi. Ngokujwayelekile, Ijaji ngalinye ngonyaka labelwa amacala aqukethe ubufakazi obulinganiselwa emakhasini ayizi-30 000 kanye nobufakazi obungamazibithi. Ngaphezulu kwalokho, Ijaji ngalinye labelwa izicelo zokudluliswa kwamacala ezibizwa ngamaphethishini.