OKUNYINELWE INGXELO KUKHULULO OLUKHETHEKILEYO KWINKQUBO YOXOLELO LUKAMONGAMELI NGOKUNXULUMENE NABOPHULI-MTHETHO ABATHILE

1. **NAKUBA** kukho abantu abangabodwa abagwetyelwe ukwenza amatyala abakholwa ukuba babelandela iinjongo zezopolitiko ngokwenza oko;

2. **KWAYE NAKUBA** phambi kokuqala kokusebenza kwenkululeko yoMgaqo-siseko entsha ngangaphaya koko, uxolelo nemithetho yokhuselo yayiwisiwe kwaye yasetyenziswa ukucima imfanelo yolwaphulo-mthetho (kwaye kwezinye iimeko kuluntu (civil) kunye/okanye ukucima ukugwetyelwa ulwaphulo-mthetho kubantu abenza amatyala phambi kuka-1994 okuvela kwiimbambano zangaphambili, [ngenjongo yezopolitiko] kwiirekhodi zabo zolwaphulo-mthetho, imithetho enjalo, eyile umThetho woKhuselo (Indemnity Act) (umThetho wama-35 ka-1990), umThetho woKhuselo oluNgaphaya (Further Indemnity Act) (umThetho we-15 ka-1992) kunye nomThetho wokuPhakanyiswa koManyano noXolelwaniso lweSizwe (Promotion of National Unity and Reconciliation Act,) 1995 (umThetho wama-34 ka-1995)(“umThetho we-TRC”), iphelelwe lixesha kwaye ngeke ibe sasetyenziswa ukusebenza ngemicimbi ekhoyo ephethwe ngoku.

3. **KWAYE NANGONA** uMongameli ethathela ingqalelo onke amagatya omthetho abandakanyekayo, akafumananga nawaphi na amanyathelo akhoyo afanelekileyo okusebenza ngomcimbi okhethekileyo okhoyo ngoku;

4. **KWAYE NANGONA** iCandelo lama-84(2)(j) loMgaqo-siseko weRiphabliki yoMzantsi Afrika, 1996 (umThetho we-108 ka-1996) njengoko lihlaziyiwe libonelela ngokuba uMongameli **“unoxanduva lokuxolela okanye ukumisela izohlwayo abophuli-mthetho kunye nokulahlekelwa”**.

5. **KWAYE NANGONA** uMongameli ebhengeze ukukhululwa okukhethekileyo ngokwenza ukuba kuvalwe imicimbi enxulumene nokugwetywa kwabo Bantu

kusolwa ukuba benza ulwaphulo-mthetho belandela injongo yezopolitiko.

NGAKO OKO KE NGOKU:

1 UKUSEKWA KWEQELA LONGQINISISO (REFERENCE GROUP) (RG)

1.1 IQela loNgqinisiso elinabameli abavela kwimibutho yezopolitiko ngoko ke iyasekwa.

1.2 Ekuhlaleni kokuqala kweQela loNgqinisiso, amalungu phakathi kwawo, onyula uSihlalo oya kuchophela zonke iintlanganiso zeQela loNgqinisiso.

2. UXANDUVA LWEQELA LONGQINISISO

2.1 Ukufumana zonke izicelo ezihluziweyo zoxolelo kwiSebe lezobuLungisa noPhuhliso loMgaqo-siseko (Department of Justice and Constitution Development) (DOJ&CD).

2.2 Ukuqiniseksia ukuba isicelo ngasinye soxolelo sigcwaliswe ngendlela emiselweyo.

2.3 Ukuthathela ingqalelo isicelo ngasinye soxolelo kunye nokwenza izincomo eziya kuMongameli.

2.4 I- RG kufuneka yenze eyayo imithetho kunye neenkqubo ekuthatheleni ingqalelo isicelo ngasinye soxolelo ngenjongo zokwenza izincomo eziya kuMongameli ezisekelwe kwisicelo ngasinye.

2.5 I-RG inxibelelane ne- DOJ&CD ngemithetho neenkqubo zayo kwiintsuku ezilishumi elinesine (14) ukusukela ekuhlaleni kwayo okokuqala.

3. INKXASO YOLAWULO KWI-RG

3.1 I-DOJ&CD ziyakunika inkxaso yolawulo kunye neyomabhalane kwi-RG.

4. UKUHLALA KWEQELA LONGQINISISO

4.1 I-RG iya kuhlala eKapa okanye kuyo nayiphi na enye indawo njengoko kunokumiselwa yi-RG idibene ne- DOJ&CD.

5. IIMPEMBELELO ZEZIMALI

5.1 Akukho lungu liyakunikwa umvuzo ngeenkonzo zalo kwi-RG.

5.2 I-DOJ&CD iya kuba yimfanelo yayo lonke ulungiselelo kunye neendleko zokuhamba zamalungu e-RG.

5.3 Onke amalungiselelo anxulumene nomsebenzi we-RG aya kwenziwa ligosa elonyuliweyo kwi-DOJ&CD.

6. IXESHA LOKUBAKHONA KWEQELA LONGQINISISO

6.1 I-RG iya kuba khona ixesha eliya kusukela kwintlanganiso yokuqala ukuya kuma kumhla umsebenzi wayo ugqitywa ngawo, yomibini le mihla iqukiwe, umhla wokugqibela awuyi kuba ngaphaya kwama-30 Septemba 2008.

7. NGUBANI OFANELEKILEYO KUXOLELO

7.1 Ngabantu ababanjwa kwaye bagwetywa kuphela ngenxa yokuba kusolwa ukuba benze amatyala aphenjelelwa zezopolitiko phambi komhla we-16 Juni 1999; kwaye

7.2 Bethobela indlela esetyenziswayo ukukhetha emiselwe kwangaphambili kunye neenkqubo njengoko zibekiwe kifom yesicelo, abanokufaka isicelo sokuxolelwa nguMongameli ngendlela emiselweyo.

7.3 Umntu uyakufaneleka ukuba athathelwe ingqalelo yokuba axolelwe kuphela ukuba–

(a) yena (he or she)

(i) uthothoza isigwebo sokuvalelwa;

(ii)wagwetyelwa ukuvalelwa ejele okanye isohlwayo

ngetyala elivela okanye elinxulumene, nesenzo okanye ukungenzi okunxulunyanisa nenjongo yezopolitiko elenziwa ngexa leembambano zangaphambili;

(b) ityala ekubhekiselwe kulo kumhlathi (a) lenziwa ngawo okanye ngaphambi kwawo umhla wokubekwa esihlalweni kukaMongameli ngowe-16 Juni 1999; kwaye

(c) isicelo sakhe soxolelo sikhatshwa yingxelo efungelweyo emiselweyo okanye uqiniselo olungqinelwa okanye oluqiniselwe ngumntu ogunyaziswe liqela lezopolitiko okanye umbutho, iziko, umbutho wenkululeko okanye iqumrhu, apho kuqinisekiswayo ukuba isenzo okanye ukungenzi okumisela ityala ekuthethwa ngalo, kwenzeka phantsi komyalelo ka, okanye ekwenziweni komyalelo, ukuyalelwa, kolawulo, kokuxelelwa, icebo, uyilo okanye iprojekithi ka, okanye egameni lika, okanye ngokuvuma kuka, okaye ekuqhubeni, ekuphakanyisweni okanye ekuphumezeni imigaqo-nkqubo, iinjongo okanye imidla, yeqela, umbutho, iziko, umbutho wenkululeko okanye iqumrhu ekuthethwa ngalo umfaki sicelo owayeyilungu lalo, i-arhente okanye umxhasi walo.

8. NGUBANI ONGAFANELEKANGA KUXOLELO

8.1 Umntu akayi kufaneleka ukuba athathelwe ingqalelo kuxolelo ukuba –

(a) ugwetyelwe ityala elinxulumene:

(i) naso nasiphi na isenzo sezesondo;

(ii) naso nasiphi na isenzo nokuba sinjani sobundlobongela basekhaya,

(iii) naliphi na ityala ekubheksielwe kulo kwicandelo le-13 lomThetho weziYobisi nokuHanjiswa kweziYobisi, 1992 (umThetho we-140 ka-1992), onxulumana nokwenziwa kunye nokunikezwa kwezi zinto, ukusebenzisa kunye nokuba neziyobisi kuwe nokusebenza ngeziyobisi;

(b) nokuba wafaka isicelo kwiKomiti yoXolelo eyasekwa phantsi komThetho we-TRC kwaye isicelo sakhe soxolelo saliwa; kwaye

(c) **AKATHOBELANGA** zonke izinto ezimiselweyo ezifunekayo **ngalo okanye ngaphambi** “kwethuba elivulekileyo”leenyanga ezintathu (3) sele liphelelwe.

9. UKUFAKWA KWESICELO

9.1 Kuphela zizicelo ezigcwaliswe ngokufanelekileyo kwaye ngokugcweleyo ngendlela emiselweyo, kuqukwa nefom emiselweyo eyilelwe le njongo yokukhululwa ngokukhethekileyo, kwixesha “lethuba elivulelekileyo, eziya kuthathelwa ingqalelo.

9.2 Kuphela sisicelo esifakwe ngumntu oyedwa esiya kuthathelwa ingqalelo. Isicelo kufuneka senziwe ngumfaki sicelo oyedwa njengoko kumiselwe size singeniswe kwi- DOJ&CD.

9.3 Iqela lezopolitiko akulo umfaki sicelo nalo linokufaka isicelo kwi-DOJ&CD egameni lakhe.

9.4 Kwimeko yokuba isicelo singeniswe liqela lezopolitiko egameni lomfaki sicelo; iqela lezopolitiko kufuneka:

9.4.1 liqinisekise ukuba isicelo sigcwaliswe ngendlela emiselweyo;

9.4.2 liqinisekise phantsi kwesifungo ukuba iimeko ezisolwayo ityala elenziwe phantsi kwazo zichanekileyo kwaye aziguquki kwizenzo/imisebenzi yezopolitiko iqela lezopolitiko elaliyinxenye yazo.

10. IZINCOMO EZENZIWA YI-RG

10.1 Zonke izincomo ezenziwa ngokunxulumene nezicelo zoxolelo kufuneka zingeniswe kuMongameli.

10.2 Izincomo ezenziwa yi-RG ziyakwenziwa ngokuphathelene nesicelo ngasinye soxolelo.

10.3 Isincomo esenziwe yi-RG ngokuphathelene nesicelo ngasinye soxolelo kufuneka sibonise izimvo zoninzi ngokunjalo nezegcuntswana lamalungu, ukuba kukho naziphi, ngokuphathelene nesicelo ngasinye.

10.4 UMongameli unegunya lokuzikhaba izincomo ezenziwe yi-RG.

11. AMAGUNYA OKUNIKA UXOLELO

11.1 UMongameli emva kokuthathela ingqalelo izincomo ezenziwe yi-RG, unegunya lokusivuma okanye asale isicelo soxolelo.

11.2 Akukho mntu unelungelo lokuxolelwa nguMongameli.

11.3 Ukunikwa koxolelo kuye nawuphi na umntu kuyakukhokelela ekucinyweni kwesigwebo kunye nerekhodi yolwaphulo-mthetho yetyala elinxulumene nalowo unikwa uxolelo.

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