

**PROF M S MAKHANYA, OYINHLOKO NEPHINI LIKASHANSELA
ENYUVE SI YASENINGIZIMU AFRIKA
INKULUMO YOKWAMUKELWA NOKWETHULWA KWOLOWO OWAYE
EYIPHINI LIKAJAJI ELIKHULU, UJAJI DIKGANG MOSENKE
UKWETHULWA KWENCWADI ETHI ALL RISE: A JUDICIAL MEMOIR
MHLA ZI-11 KULWEZI 2020**

Ngiyabonga, Mphathi Wohlelo: Prof Olaotse John Kole, oyiPhini likaDini wesiGungu: iKholeji yezoMthetho, eNyuveti yaseNingizimu Afrika

- Ujaji Dikgang Moseneke, Owabe eyiPhini likaJaji eliKhulu eNingizimu Afrika
- Mnu Nathi Mthethwa, uNgqongqoshe weZemidlalo, ezoBuciko kanye namaSiko
- Prof Wiseman Nkuhlu, oyiShansela leNyuveti yasePitoli
- Abahlonishwa, amaNxusa kanye noKhomishani abaPhakeme abamele amazwe ahlukahlukene eNingizimu Afrika
- Prof Veronica McKay, oyiBamba eliyiPhini leNhloko: *Teaching, Learning, Community Engagement and Student Support*
- Prof Vinesh Basdeo, oyiDini yesiGungu: EKholeji yezoMthetho

- Amalungu esiGungu sase-Unisa kanye nabaPhathi ngokubanzi abakhona lapha
- Abameli abavela kumaziko ezomthetho ahlukahlukene abazohlanganyela nathi namuhla
- Abameli abavela kumaziko emfundo aphakeme angozakwethu kanye nezinhlangano zocwaningo
- Amalungu omphakathi wezebhizinisi
- Abameli abavela kwizinhlangano zabafundi ezahlukahlukene
- Izivakashi ezimenyiwe
- Odadewethu kanye nabafowethu

Ngiyanibingeleta nonke entambama yanamuhla.

Kuyinjabulo enkulu, futhi, ukwamukela nokunethulela uJaji Dikgang Moseneke, Owaye yiPhini leJaji eliKhulu eNingizimu Afrika, njengoba nazi, ukuthi ungomunye usolwazi owayengumfundu ovelele wase-Unisa.

Iningi lenu engeke lakukhumbula ukuthi ngonyaka ka 2008, uJaji Moseneke waye eyisikhulumi esiqavile emcimbini wethu wokuvulwa konyaka wezemfundo lapho wakhulumma wageqa amagula ngale nyuvesi, iNyuvesi yaseNingizimu Afrika, *alma mater*, kanye nendima esemqoka eyayidlala empilweni yakhe. Le kwakuyindlela yokuveza

indima esemqoka kwezemfundo, kanye nakumanyvesi, kwintuthuko nakwingqubekelaphambili yomphakathi.

Ngaleso sikhathi esifushane, uJaji Moseneke akahlabanga umxhwele abalaleli bakhe ngobuciko kanye nokuhlakanipha kwakhe, kanti futhi wanceda wonke umuntu ukuba azwisise ukubaluleka kanye nendima eyadlalwa yile nyuvesi ngesikhathi sobumnyama ombuso wengcindezelo, ayisakhulunywa yokuthi yize yaphumelela ekuhlinzekeni ngemfundo, yayingeke yaphumelela ekuqhubeni uhlelo oluhlangene lwemicimbi yokuphothulwa kweziyu. Lokhu kwakwenziwa ngokukhetha iphela emasini, kucwasana ngokwebala. Njengomphumela, amanye amaNingizimu Afrika amnyama akhetha ukungaphothuli iziqu zabo ngaphansi kwalezi zimo, kanti kusobala ukuthi bonke labo ababesemajele babengeke baphothule iziqu zabo. INyuvesi entsha yaseNingizimu Afrika okulandelayo yabamba imicimbi yokuphothulwa kweziyu ePitoli naseNtshonalanga Kapa, njengomzamo wokulungisa amaphutha esikhathi esedlule. Lokhu kukhombisa ukuzimela kwakhe ngokwengqondo. UJaji Moseneke akaze ahlobise ngamampunge, noma afihle iqiniso. Wasebenza kahle ngesithunzi ekwenzeni umsebenzi wakhe kanti ngokwenze njalo wazinikeza inhlonipho yangempela kanye nokuthandwa okuyinto abantu abambalwa abangazigqaja ngayo.

Ukuzimela ngokomqondo kukaJaji Moseneke akuzange kudlule kahle kanti empeleni, lokhu kwenzeka ngesikhathi esithize. Kanti umuntu uyasola ukuthi – njengoba lokhu kuvamile kubantu abanesizotha sangempela, abantu abangafisi ukuyeka injwayelo yokuyeka umgomo kugxilwe phezu kokujaha okuthize – okuyinto ekudala azilungiselele yona, nento afisa ukuyemukela, njengomphumela. Empeleni, singaveza kuphela ukuzithoba kanye nokubonga esisenakho ezweni lakithi, obaba nomama abasaziphethe kahle abangesabi ukuveza imibono yabo nokuzibandakanya kwinkulumompikiswano, akukhathalekile ukuthi udaba lubalulekile noma lubi kangakanani. Okuningi kushiwo mayelana nesidingo sokubamba inkulumompikiswano eshisayo yezifundiswa kanye nokuxoxisana. Empeleni, yiwo kanye le migomo esihlose ukuyitshala e-Unisa. Mhlonishwa, Jaji Moseneke, ngakho-ke ubeke isibonelo esihle kuleyo ndima.

Bodadewethu kanye nabafowethu, okunye okusuke kwavela kuleyo nkulumo, ukuthi uJaji Moseneke akaholelwana ngokusemandleni kuphela ukuthi ukusebenza kanzima kanye nemfundo amathuluzi asemqoka wempilo eyimpumelelo kanye nempilo eyinzuso; uye wakukhombisa lokhu ngegama kanye nangesenzo. Unombono othi ukuzikhandla kanye nokusebenza kanzima yizinsika ezidingekayo uma

uphokophele ukufinyelela ubulungisa babantu kunoma yisiphi isigaba. Ngiyakholwa, ukuthi, isifundo abaningi ababengasifunda kahle ngesinye isikhathi ukwethembeka kanye nesithunzi uma wenza umsebenzi wakho kubonakala kakhulu kungamandla angcwele kunokuthi kube wumphumela wemvelo nje wokuziphatha ngesizotha, wokusebenza kanzima.

Ngabe uhlelo lokwakha luqala kuphi?

UJaji Dikgang Moseneke wazalwa ngenyanga kaZibandlela 1947 ngasedolobheni lase *City of Tshwane*, lapho angina isikole sebanga eliphansi neliphezulu. Uthe eseneminyaka eyi-15, ngesikhathi efunda ibanga lesishiyagalombili (*standard eight*), uMoseneke waboshwa, wagwetshwa kanti wavalelwa ngenxa yokuthi yokuzibandakanya emzabalazweni wokulwa nombuso wengcindezi. Wagwetshwa iminyaka eyi-10, okuyiminyaka ayidonsa *eRobben Island*. UMoseneke wafunda ibanga likamatikuletsheni kanye neziyu ze-BA *in English* kanye ne *Political Science* kanye neziyu ze-B *Juris*. Ngemuva kwalokho waqedza iziqu zakhe ze-LLB. Zonke lezi ziqu wanikezwa zona yiNyuvesi yaseNingizimu Afrika.

uMosenike waqala ukusebenza njenge-*attorney's clerk* ngase*Klagbruns Inc* ePitoli ngo 1976. Ngonyaka ka 1978 wamukelwa futhi wasebenza iminyaka emihlanu njengegqwetha (*attorney*) beyimbumba kwifema yamagqwetha *i-Maluleke, Seriti and Mosenike*. Ngonyaka ka 1983 wabizelwa ku *Bar* wasebenza njengo-adivokheyithi (*advocate*) eGoli nasePitoli. Ngemuva kweminyaka eyishumi, ngonyaka ka 1993, wayesekhushulelwa ezingeni likakhansela omkhulu (*senior counsel*). Ngaleso sikhathi wasebenza kwikomiti tesithekihikhali eyahlela uMthethosisekelo wesiKhashana ngo 1993. Ngonyaka ka 1994 wakhethwa njengePhini likaSihlalo we-*Independent Electoral Commission*, okuyinkomishani eyayibambe amakhetho okuqala entando yeningi eNingizimu Afrika.

NgoMandulo 1994, njengoba wayesebeenza njenge *silk*, uMosenike wamukela isikhundla kwiNkantolo eNkulu yokuDlulisela Amacala i-*Transvaal Provincial Division of the Supreme Court*. Ngaphambi kokukhethwa njengeJaji eliKhulu kwiNkantolo yoMthethosisekelo, ngoLwezi 2001, uMosenike wakhethwa njengeJaji leNkantolo eNkulu ePitoli. Mhla zi-29 kuLwezi 2002 wakhethwa njengeJaji eNkantolo yoMthethosisekelo kanti ngoNhlangulane 2005, uMosenike wakhethwa njengePhini leJaji eliKhulu kwiRephabliko yaseNingizimu Afrika.

UMoseneke uyilungu elingumsunguli we-*Black Lawyers' Association* kanye ne*National Association of Democratic Lawyers of South Africa*.

Ngonyaka ka 1986 uMoseneke wakhethwa njenge-*visiting fellow* kanye neleksha ngase*Columbia Law School*, ngase-*University of Columbia*, e-New York. UnguShansela wokuqala ngasePretoria Technikon kanti wasebenza njengoShansela we-*University of the Witwatersrand*. Emyakeni engama-20 eyndlule, uMoseneke sewufunde amaphepha ezomthetho kwizinkomfa ezimbalwa zomthetho kanye nezamabhizinisi kanti sewukhiphe amaphepha ambalwa ezemfundo kumajenali ezomthetho lapha ekhaya nangaphesheya. Uhlonishwe ngeziqo zobudokotela kanti sewuhlonishwe ngezindondo eziningi njengophawu lokuhlonipha, ukusebenza kanye nomsebenzi ovelele.

UMoseneke washada uMme Khabo Moseneke kanti banendodakazi eyodwa kanye namadodana amabili.

Jaji Moseneke, sizizwa sihlonipheke kakhulu ngokubamba umcimbi wokwethulwa kwencwadi yalokho osekubizwa nge “*bird's-eye view of the constitutional issues of the time*”. Uma kulandelwa incwadi yokuqala enodumo olungaka yesihloko esithi *My Own Liberator*, lo

mqlu wesibili wenza igalelo elihle eliphawulekayo mayelana nezindaba ezimbalwa esidingidana nazo njengomphakathi, ikakhulu mayelana nesimo sokulandelwa kwemigomo yokuphatha ezweni lakithi kanye ngokubanzi nesimo sephrojekhi yethu yedemokhrasi. Empeleni, Jaji Moseneke, lezi zincwadi sezithole udumo olukhulu, umuntu angeke asolwa uma engacabanga ukuthi ukhethe ubizo lomsebenzi olungakufanele!

Jaji Moseneke, sizizwa sihlonipheke kakhulu ukuba sibambe lomcimbi wokwethulwa kwale ncwadi, ngakolunye uhlangothi okungumcimbi obonga ukuhlonishwa okukhulu osilethele yona njengenyuvesi.

Mhlonishwa, wamukeleke kakhulu. Sibheke phambili ukuthi sizijabulise ngazo zonke izingqubo.

Ngiyabonga.