UMTHETHO WOKUKHUTHAZA UKULINGANA NOKUTHINTELA UCALUCALULO OLUNGENABULUNGISA, UMTHETHO 4 KA-2000
[OVUNYWE NGOMHLA WESI-2 FEBHUWARI 2000] [UMHLA OQALA NGAWO: 16 JUNI 2003] (Ngaphandle kokuba kubonisiwe)
(Umbhalo wesiNgesi utyikitywe nguMongameli)

ngokulungiswa ngu
Mthetho Olungisiweyo wokuKhuthaza Ukulingana Nokuthintela Ucalucalulo Olungenabulungisa, Umthetho 52 ka-2002
UMthetho Olungiswe Okwesibini Wemiba yeeJaji, uMthetho 55 ka-2003
Umthetho Olungisiweyo Wemiba YeeJaji, uMthetho 22 ka-2005

UMTHETHO
Ukunika impumelelo kwicandelo 9 funda nombandela 23 (1) weShedyuli 6 kuMgaqo-siseko weRiphabhliki yoMzantsi Afrika, 1996, ukuze luthintelwe futhi lungavunyelwa ucalucalulo olungenabulungisa kunye nokuphathwa gadalala; kukhuthazwe ukulingana kususwa ucalucalulo olungenabulungisa; zithintelwe futhi zingavunyelwa iintetho ezikhuthaza intiyo; nokunikezela kwimiba enxulumene noko.

Ingabula zigcawu

Ukuzinziswa kwedemokhrasi kwilizwe lethu kudinga ukuphelisa ukungalingani kwimiba yezentlalo noqoqosho, ngakumbi leyo iphuma kwiinkqubo zokuphatha, nezazenziwe yimbali yethu yokusekwa kwezithanga, ucalucalulo nokuphathwa ngamadoda (patriarchy), nokwazisa intlungu nokuhlupheka kuninzi lwabantu bethu;

Nangona inkqubela ebonakalayo sele yenziwe ekuvuseleleni ngokutsha nasekutshintsheni intlalo yethu, amaziko, ukungalingani nocalucalulo olungenabulungisa lusendele nzulu kumaqumrhu asekuhlaleni, kwizenzo nakwizimvo, nto leyo eyijongela phantsi iminqweno yomgaqo-siseko wedemokhrasi;

Isiseko sokuqhubela phambili ngokulungisa ezi meko kuxhomekeke kumgaqo-siseko wona, phakathi kwezinye, ubeka phezulu ukuxabiseka kwesidima somntu, ukulingana, inkululeko nentlalo enobulungisa kwilizwe elibumbeneyo, nelingacalulicaluliyo ngobuhlanga nangesini apho wonke umntu engaphumelela;

UMzantsi Afrika ukwanemvumelwano ebophelelayo namazwe ngamazwe phantsi komnqophiso kunye nomthetho oqhelekileyo wamazwe ngamazwe olawula imiba yamalungelo abantu nokhuthaza ukulingana ukuthintela ucalucalulo olungenabulungisa. Phakathi kwezi mvumelwano, kukho ezo zikhankanywe kwiNgqungquthela Yokupheliswa Kweendlela Zonke Zocalulo lwabasetyhini kunye neNgqungquthela Yokupheliswa Kweendlela Zonke Zocalulo Ngokobuhlanga.

Icandelo 9 loMgaqo-siseko linika umiselo lowiso-mthetho lwesizwe oluthintela okanye olugwema ucalucalulo olungenabulungisa nokukhuthaza ukuphunyezwa kokulingana;

Oku kuthetha inkqubela phambili ngokumisela imilinganiselo ekhethekileyo yomthetho nezinye iindlela, ezijoliswe kubantu ngabanye ababevinjwe amathuba ngaphambili, kwiindawo zentlalo nakumaqela asekuhlaleni ahluthwa umhlaba nobutyebi bawo, kwanyhashwa isidima sabo nabasaqhubeka benyamezele umvambo weziphumo zoko;

Lo Mthetho usaqhubeka nokuqinisekisa ukuhamba kakuhle kotshintsho ekuhlaleni olulawulwa yidemokhrasi, olubumbeneyo naxa kungafanwa, nokuphawulwa ngobudlelwane babantu abanenkathalo nangobubele, olukhokelwa yimithetho-siseko yokulingana, ubulungisa, inkqubela ekuhlaleni, isidima somntu nenkululeko,

NJENGOKUBA UBONISIWE KUWISO-MTHETHO lwePalamente yoMzantsi Afrika, ngale ndlela ilandelayo:-

ISIQULATHO

ISAHLUKO 1
INGCACISO-MAGAMA, IINJONGO, UKUTOLIKA, IMITHETHO-SISEKO EKHOKELAYO KUNYE NOKUSETYENZISWA KOMTHETHO

1 Ingcaciso-magama
2 Iinjongo zalo Mthetho
3 Ukutolikwa kwalo Mthetho
4 Imithetho-siseko ekhokelayo
5 Ukusetyenziswa kwalo Mthetho

ISAHLUKO 2
UKUTHINTELA, UKUNGAVUMELI NOKUPHELISA UCALUCALULO OLUNGENABULUNGISA, INTETHO EPHEMBELELA INTIYO NOKUPHATHA GADALALA
6 Ukuthintela nokungaluvumeli jikelele ucalucalulo olungenabulungisa
7 Ukungavumeli ucalucalulo olungenabulungisa ngokobuhlanga
8 Ukungavumeli ucalucalulo olungenabulungisa ngokwesini
9 Ukungavumeli ucalucalulo olungenabulungisa ngokukhubazeka
10 Ukungavumeli iintetho eziphembelela intiyo
11 Ukungavumeli ukuphatha gadalala
12 Ukungavumeli ukusabalalisa nokupapasha ulwazi olucalucalula ngokungenabulungisa kunye nokucalucalula ngokungenabulungisa

ISAHLUKO 3
UBUNZIMA BOKUFUMANA UBUNGQINA NOKUMISELA UBULUNGISA OKANYE UKUNGABIKHO KOBULUNGISA

13 Ubunzima bokufumana ubungqina
14 Ukumisela ubulungisa nokungabikho kobulungisa
15 Intetho ephembelela intiyo nokuphatha gadalala ayixhomekekanga kumiselo lobulungisa

ISAHLUKO 4
IINKUNDLA ZOKULINGANA
16 Iinkundla zokulingana namagosa azikhokelayo
[Icandelo. 16 lisusiwe ze endaweni yayo kwafakwa icandelo 1 loMthetho 52 ka- 2002.]
17 Oomabhalana beenkundla zokulingana
18 Amangqina
19 Imithetho neenkqubo zenkundla
20 Ukungenisa amatyala ngokwemigqaliselo okanye ngaphantsi koMthetho
21 Amagunya nemisebenzi yenkundla yokulingana
22 Abancedi-jaji

23 Izibheno nophononongo

ISAHLUKO 5
UKUKHUTHAZA UKULINGANA
24 Uxanduva jikelele lokukhuthaza ukulingana
25 Uxanduva lweSizwe ukukhuthaza ukulingana
26 Uxanduva lwabantu abasebenza kwicandelo loluntu ukukhuthaza ukulingana
27 Ukuzinikela ngokwasentlalweni kwabo bonke abantu ukukhuthaza ukulingana
28 Amanyathelo awodwa okukhuthaza ukulingana ngokunxulumene nobuhlanga, isini nokukhubazeka
29 Uluhlu olubonisa izenzo ezingenabulungisa kumacandelo athile

ISAHLUKO 6
AMALUNGISELELO JIKELELE NOKUPHUNYEZWA KOMTHETHO
30 Imimiselo
31 Ukuphunyezwa koMthetho
[Icandelo 31 lisusiwe ze endaweni yayo kwafakwa icandelo 3 loMthetho 52 ka- 2002.]

ISAHLUKO 7
UPHONONONGO LOMTHETHO, ISIHLOKO ESIFUTSHANE NOKUQALISWA
32 Ukusekwa Kwekomiti yoPhononongo lokulingana
33 Amagunya, imisebenzi nexesha lokusebenza eofisini kweKomiti Yokuphononongo Ukulingana
34 Imithetho-siseko elawula umba we-HIV/AIDS, ubuzwe, ubume bentlalo noqoqosho kunye noxanduva nobume bosapho
35 Isihloko esifutshane nokuqaliswa

ISAHLUKO 1
INGCACISO-MAGAMA, IINJONGO, UKUTOLIKA. IMITHETHO-SISEKO EKHOKELAYO KUNYE NOKUSETYENZISWA KOMTHETHO

1 INGCACISO-MAGAMA

(1) Kulo Mthetho, ngaphandle kokuba umxholo unika enye inkcazelo-

'ubudala' buquka iimeko zokuvinjwa amathuba nobu-ethe-ethe obukhathaza abantu ngenxa yobudala ngakumbi xa sebaluphele;

'umabhalana wenkundla yokulingana' uthetha umabhalana wenkundla yokulingana otyunjwe okanye onyulwe ngokwemigqaliselo yecandelo 17, lifunde kunye necandelo 31, yaye liquka nantoni na ebhekisa ku **'mabhalana'**;

'iKhomishini yokuLingana NgokweSini ' ithetha iKhomishini yokuLingana ngokweSini ekubhekiswa kuyo kwicandelo 187 loMgaqo-siseko;

'ummangali' uthetha nawuphi umntu otyhola ukungathotyelwa kwalo Mthetho nofuna kungeniswe isityholo ngokwemigqaliselo yalo Mthetho;

'uMgago-siseko' uthetha uMgago-siseko weRiphabhliki yoMzantsi Afrika ka-1996 (UMthetho 109 ka-1996;

'iziko lomgaqo-siseko' lithetha nawaphi amaziko achaphazelekayo ekuxhaseni uMgaqo-siseko wedemokhrasi ekubhekiswa kuwo kwisahluko 9 soMgaqo-siseko yaye uquka iBhodi yeeLwimi zoMzantsi Afrika (i-PanSALB);

'iSebe' lithetha iSebe lezoBulungisa kunye noPhuhliso loMgaqo-siseko;

'ucalucalulo' luthetha nasiphi isenzo okanye ukushiywa, kuqukwa umgaqo-nkqubo,

umthetho, ulawulo, ukusetyenziswa, ubume okanye imeko ethi ngokungqalileyo okanye ngokungangqalanga-

(a) enyanzelisa umthwalo onzima, iimvumelwano ezibophelelayo okanye izithintelo ; okanye

(b) engavumiyo ukunika izibonelelo, amathuba okanye uncedo,

nakuwuphi umntu ngesizathu esinye okanye ezingaphezulu ezingavunyelwanga;

'ukulingana' kuquka ukonwabela ngokulinganayo nangokuzeleyo amalungelo nenkululeko njengoko kuchazwe kuMgaqo-siseko yaye kuquka ukulingana ngokomthetho (*de jure*) nangokwenyani (*de facto)* kunye nokulingana ngokwemigqaliselo yeziphumo;

'inkundla yokulingana' ithetha inkundla echazwe kwicandelo 16, lifunde kunye necandelo 31, yaye liquka nayiphi into ebhekisa kwi 'nkundla';

'uxanduva losapho' luthetha uxanduva ngokunxulumene nommangalelwa oyindoda/inkosikazi, iqabane, umntu oxhomekekileyo, umntwana okanye amanye amalungu osapho lwakho ngokumalunga nokuba ngubani na ilungu elinemfanelo yokukhathalela nokuxhasa;

'ubume bosapho' buquka ukuba lilungu losapho kunye namalungelo entlalo, enkcubeko nawomthetho kunye nokulindelekileyo ngokunxulumene nobume obo;

'ukuphathwa gadalala' kuthetha ukuziphatha okungamkelekanga okuzingisayo okanye okuxhalabisayo nokuthobayo, kujongela phantsi okanye kudala umoya wobutshaba okanye owoyikisayo okanye kumisela intobeko enyanzelisayo ngeziphumo ezibi okanye zokusongela ezinxulumene-

(a) nesini, izinto ezinxulumene nesini, okanye isini ozikhethela sona, okanye

(b) ubulungu bomntu okanye ubulungu obucingelwa kwangaphambili beqela elibonwa ngomnye okanye ngabangaphezulu komnye ukuba buwela kwizizathu ezingavunyelwanga okanye bubonisa iimpawu ezayanyaniswa neqela elinjalo;

'ubume be-HIV/AIDS' buquka ukubakho ngokwenene okanye okucingelwayo emzimbeni womntu kwentsholongwane ye-HIV okanye iimpawu zikagawulayo, kunye nezikweko ezisekelwe kobu bume;

'isini esingenacala (intersex)' sithetha umahluko kwisini sendalo nesahlukileyo, ukuya nakuliphi na iqondo;

[Inkcazelo ye 'intersex' ifakwe kwicandelo 16 *(a)* loMthetho 22 ka- 2005.]

'ubume bomtshato' buquka ubume okanye imeko yokungatshati, ukutshata, ukwahlukanisa, ukuba ngumhlolo/umhlolokazi okanye ukuba kubudlelwane nokuba unabo nomntu wesini esifanayo nesakho okanye owesini esahlukileyo, buquka ukuzinikela ekuxhaseni ubudlelwane ngokufanayo macala;

'UMphathiswa' uthetha uMphathiswa weZobulugisa noPhuhliso koMgaqo-siseko;

'ubuzwe' buthetha imvelaphi ngobuhlanga okanye ngobuzwe yaye buquka izenzo ezayanyaniswa noloyiko lwabasemzini (i-xenophobia ngolwasemzini) kunye nezikweko zocalucalulo ngokwendalo kodwa zingaquki amalungelo neemvumelwano ezibophelelayo ezidla ngokwayanyaniswa nobumi;

'umntu' uquka umntu ngokomthetho wobulungisa, iqela elingenabulungisa, iqela okanye uhlobo oluthile lwabantu;

'ukukhulelwa' kuquka nayiphi imeko enxulumene nokukhulelwa, ukukhulelwa okucwangcisiweyo, ukukhulelwa okunokwenzeka okanye ukuqhomfa/ukukhupha isisu;

'ukumisela' kuthetha ukumisela ngokommiselo wemigqaliselo yalo Mthetho;

'igosa eliphetheyo' lithetha igosa eliphetheyo lenkundla yokulingana elicamngcwe kwicandelo 16, lifunde kunye necandelo 31;

'izizathu ezingavunyelwanga'-

(a) bubuhlanga, isini, izinto ezinxulumene nesini, ukukhulelwa, ubume bomtshato, imvelaphi yohlanga okanye yentlalo, ibala, isini ozikhethele sona, ubudala, ukukhubazeka, inkolo, isazela, ukholo, inkcubeko, ulwimi nokuzalwa; okanye

(b) nasiphi esinye isizathu apho ucalucalulo olusekelwe kweso sizathu-

(i) lubanga okanye luphembelela ukuhleleleka;

(ii) lujongela phantsi isidima somntu; okanye

(iii) luchaphazela ngokuchaseneyo ukonwatyelwa ngokulinganayo kwamalungelo nenkululeko yomntu ngendlela eyingozi engathelekiswa nocalucalulo ngesizathu esikumhlathi *(a)*;

'ummiselo' uthetha ukumiselwa ngokwemigqaliselo yalo Mthetho;

'ummangalelwa' uthetha nawuphi umntu obekwa ityala ze asiwe enkundleni ngokwemigqaliselo yalo Mthetho;

'icandelo' naliphi icandelo ekubhekiswa kulo kwicandelo 29, neliquka amacandelo amiselwe kwiShedyuli;

'isini' siquka isini esingenacala;

[Inkcazelo ye ''sini' ifakwe kwicandelo 16 *(b)* loMthetho 22 ka-2005.]

'ubume bentlalo noqoqosho' buquka isimo sentlalo noqoqosho okanye isimo esiqwalaselwayo somntu okwimeko yentlupheko, izinga eliphantsi ngokwengqesho okanye ukungabikho okanye umgangatho ophantsi wemfundo;

'iKhomishini yaseMzantsi Afrika Yamalungelo oluNtu ' ithetha ikhomishini yaseMzantsi Afrika yamalungelo oluntu ekubhekiswa kuyo kwicandelo 184 loMgaqo-siseko;

'uRhulumente' sibandakanya-

(a) naliphi isebe likaRhulumente okanye lolawulo lorhulumente wesizwe, amaphondo okanye wasekhaya;

(b) nawuphi umsebenzi okanye iziko-

(i) elisebenzisa igunya okanye elenza umsebenzi ngokwemigqaliselo yoMgaqo-siseko okanye ngokomgaqo-siseko wephondo; okanye

(ii) elisebenzisa igunya loluntu okanye elenza umsebenzi woluntu ngokwemigqaliselo yalo naluphi uwiso-mthetho okanye phantsi komthetho wesithethe okanye wesiko;

'lo Mthetho' uquka naluphi ulawulo olwenziwa ngokwemigqaliselo yalo Mthetho.

[Umhla wokuqalisa kwecandelo 1: 1 Septemba 2000.]

2 **Iinjongo zalo Mthetho** -

(a) kukumisela uwiso-mthetho olufunekayo kwicandelo 9 loMgaqo-siseko;

(b) kukunika isiphumo kwincwadi nomoya woMgaqo-siseko, ngakumbi-

(i) ukonwabela ukulingana kwawo onke amalungelo neenkululeko zomntu wonke

(ii) ukukhuthaza ukulingana;

(iii) iinkqubo ezingenamkhethe ngokwesini nangokobuhlanga;

(iv) ukuthintela ucalucalulo olungenabulungisa nokukhusela isidima somntu njengoko kuchazwe kwicandelo 9 nele-10 loMgaqo-siseko;

(v) Ukungavumeli intetho ephembelela intiyo esekelwe kubuhlanga, isini okanye inkolo nokuphembelela udushe olufukamileyo njengoko luchazwe kwicandelo 16 (2) *(c)* loMgaqo-siseko nakwicandelo 12 lalo Mthetho;

(c) ukunika iindlela zokuhambisa kakuhle ukusiphulwa neengcambu kocalucalulo olungenabulungisa, intetho ephembelela intiyo kunye nokuphathwa gadalala ngakumbi ngokobuhlanga, isini nokukhubazeka;

(d) ukunika imigaqo-nkqubo emisela iimeko ezikhokelela kucalucalulo olungenabulungisa;

(e) ukunika iindlela zokufundisa nokuvundlisa uluntu ngokubaluleka kokukhuthaza ukulingana nokoyisa ucalucalulo olungenabulungisa, intetho ephembelela intiyo kunye nokuphathwa gadalala;

(f) ukunika isisombululo kumaxhoba ocalucalulo olungenabulungisa, entetho ephembelela intiyo nokuphathwa gadalala kunye nabantu abalungelo labo lokulingana lithe laphulwa ;

(g) ukumisela iindlela zokuphuhlisa abantu ababevinjwe amathuba lucalucalulo olungenabulungisa;

(h) ukuhambisa kakuhle kokuthotyelwa ngakumbi kweemvumelwano ezibophelelayo zomthetho wamazwe ngamazwe kuquka neemvumelwano ezibophelelayo ngokwemigqaliselo, phakathi kweminye, yeNgqungquthela yokuPheliswa kwazo zonke iiNdlela zoCalucalulo.

[Umhla wokuqaliswa kwecandelo 2: 1 Septemba 2000.]

3 Ukutolikwa kwalo Mthetho

(1) Nawuphi umntu osebenzisa lo Mthetho kufuneka atolike amagatya awo ukwenza ukuba kusebenze-

(a) uMgaqo-siseko, amagatya aquka ukukhuthaza ukulingana ngowiso-mthetho nangezinye iindlela eziqulunqelwe ukukhusela nokuphuhlisa abantu ababefudula bevinjwe amathuba lucalucalulo olungenabulungisa lwangaphambili nolwangoku;

(b) ingabula-zigcawu, iinjongo kunye nezikhokelo zalo Mthetho, ngokwenzenjalo kuphunyezwa umoya, ibango neenjongo zalo Mthetho.

(2) Nawuphi umntu otolika lo Mthetho makaqaphele-

(a) nawuphi umthetho osemxholweni okanye ikhowudi yokusebenza ngokwemigqaliselo yomthetho;

(b) umthetho wamazwe ngamazwe, ngakumbi iimvumelwano zamazwe ngamazwe ekubhekiswa kuzo kwicandelo 2 nakumthetho wesiko lamazwe ngamazwe;

(c) umthetho ekungathelekiswa nawo wamazwe angaphandle.

(3) Nawuphi umntu osebenzisa okanye otolika lo Mthetho kufuneka aqwalasele umxholo wempikiswano nenjongo yalo Mthetho.

[Umhla wokuqalisa kwecandelo 3: 1 Septemba 2000.]

4 Imithetho-siseko ekhokelayo

(1) Ekugwetyweni kwazo naziphi izityholo nokuqhutywa ngokwemigqaliselo okanye phantsi kwalo Mthetho, le mithetho-siseko ilandelayo kufuneka isetyenziswe:

(a) Ukukhawuleziswa nokuqhutywa ngokungekho sikweni kwamatyala, nokukhuthaza ukuthabatha inxaxheba kwamaqela ekuxoxeni;

(b) ukufikelela kwabo bonke abantu kubulungisa kwiinkundla ezinxulumene nobulungisa nezinye iindawo zokusombulula iimpixano;

(c) ukusebenzisa imithetho yomgaqo-nkqubo ngokwemigqaliselo yecandelo 19 kunye neenqobo zokuhambisa kakuhle ukuthabatha inxaxheba;

(d) ukusebenzisa iindlela zokulungisa nokuhlaziya kudityaniswa neendlela zokuthibaza;

(e) uphuhliso lwezakhono ezikhethekileyo nengqiqo kubantu abasebenzisa lo Mthetho ukuze kuqinisekiswe ukuba usetyenziselwa ukulawula ngempumelelo.

(2) Ekusebenziseni lo Mthetho oku kulandelayo makunakanwe futhi kuqwalaselwe:

(a) ukubakho kwenkqubo yocalucalulo nokungalingani ngakumbi okunxulumene nobuhlanga, isini nokukhubazeka kuzo zonke iinkalo zobomi ngenxa yocalucalulo olungenabulungisa lwangaphambili nolwangoku, nolwaziswa yinkqubo yokuba nezithanga, inkqubo yocalucalulo nokuphathwa ngamadoda; kunye

(b) nesidingo sokuthabatha amanyathelo kuyo yonke imigangatho ukuphelisa ucalucalulo nokungalingani okunje..

[Umhla wokuqalisa kwecandelo (2): 1 Septemba 2000.]

5 Ukusetyenziswa koMthetho

(1) Lo Mthetho ubophelela uRhulumente kunye nabo bonke abantu.

(2) Ukuba nayiphi impixano enxulumene nomba oxoxwe ngokwalo Mthetho iyavuka phakathi kwalo Mthetho kunye namagatya awo nawuphi umthetho, ngaphandle koMgaqo-siseko okanye uMthetho wePalamente owazisa ngokulungiswa kwalo Mthetho, amagatya alo mthetho ngawo aya kulawula.

(3) Lo Mthetho awusebenzi nakuwuphi umntu okubhekiswa kuye nalapho uMthetho wokuLingana ngokweNgqesho, uMthetho ka-1998 (uMthetho 55 ka-1998), usebenza.

[Umhla wokuqalisa kwecandelo 5: 1 Septemba 2000.]

ISAHLUKO 2
UKUTHINTELA, UKUNGAVUMELI NOKUPHELISA UCALUCALULO OLUNGENABULUNGISA, IINTETHO EZIPHEMBELELA INTIYO NOKUPHATHA GADALALA

6 Ukuthintela nokungaluvumeli jikelele ucalucalulo olungenabulungisa

Akungebi nguRhulumente okanye nawuphi umntu ongacalucalula ngokungenabulungisa nawuphi umntu.

[Umhla wokuqalisa kwecandelo 6: 1 Septemba 2000.]

7 Ukungavumeli ucalucalulo olungenabulungisa ngokobuhlanga

Ngokwecandelo 6, akakho umntu unokucalucalula ngokungenabulungisa nawuphi umntu ngokobuhlanga, kuquka-

(a) ukusasaza naluphi ulwazi olulahlekisayo okanye uluvo, oluvelisa ukuba phezulu okanye phantsi kohlanga nolwawuphi umntu, kuquka impembelelo, okanye ukuthabatha inxaxheba nakuluphi uhlobo lomlo wobuhlanga;

(b) ukuzinikela nakuziphi izenzo ezinjongo zazo ikukukhuthaza okanye ezineziphumo zokukhuthaza, ukuzikhetha, ezisekelwe kubuhlanga;

(c) ukukhetha abantu beqela lohlanga oluthile phantsi kwawo nawuphi umthetho okanye izenzo ezibonakala zisemthethweni kodwa eneneni zijoliswe ekugcineni ulawulo olukhetha abathile liqela lohlanga oluthile;

(d) ukunikezela nokuqhubeka kunikezelwa iinkonzo ezingekho mgangathweni nakuliphi iqela lohlanga oluthile xa zithelekiswa nezinikwa iqela lolunye uhlanga;

(e) ukungavunyelwa ukuba ufikelele kumathuba, kuquka ukufikelela kwiinkonzo okanye amathuba okufumana iimvume zokufaka izicelo zokunikezela iinkonzo okanye ukungaphumeleli ukuthabatha amanyathelo okuzama ngokufanelekileyo ukunceda iimfuno zabantu abanjalo.

8 Ukungavumeli ucalucalulo olungenabulungisa ngokwesini

Ngokwecandelo 6, akakho umntu onokucalucalula ngokungenabulungisa nawuphi umntu ngokwesini, kuquka -

(a) umlo osekelwe kwisini;

(b) ukwenzakalisa iinyama zelungu lobuwasetyhini;

(c) inkqubo ethintela abasetyhini ukuba banikwe amafa ayimpahla (ipropati) yosapho;

(d) nasiphi isenzo, kuquka esamasiko, izithethe neenkolo, senzo eso sithoba isidima sabasetyhini, sithoba ukulingana phakathi kwabasetyhini namadoda, kubandakanya ukuthoba isidima nokuphila kwamantombazana;

(e) nawuphi umgaqo-nkqubo okanye ukuziphatha esikela imida ngokungenabulungisa kwabasetyhini ukuba bafikelele kumalungelo emihlaba, izimali, nobunye ubutyebi;

(f) ucalucalulo ngokokukhulelwa;

(g) ukusikela imida yokuba abasetyhini bangafikeleli kwiinkonzo zentlalo okanye kwizibonelelo ezinjengezempilo, imfundo nokhuseleko lwezentlalo;

(h) ukungavumeli ukufikelela kumathuba, kuquka ukufikelela kwiinkonzo okanye amathuba okufumana iimvume zokufaka izicelo zokunikezela iinkonzo okanye ukungaphumeleli ukuthabatha amanyathelo okuzama ngokufanelekileyo ukunceda iimfuno zabantu abanjalo;

(i) iinkqubo ezikhuthaza ukungalingani kokufikelela kumathuba kwabasetyhinii ngenxa yokwahlulwa komsebenzi ngokwesini.

9 Ukungavumeli ucalucalulo olungenabulungisa ngokokukhubazeka

Ngokwecandelo 6, akakho umntu onokucalucalula ngokungenabulungisa nawuphi umntu ngokuba ekhubazekile, kuquka -

(a) ukungavumeli okanye ukususa nakuwuphi umntu okhubazekileyo, nayiphi inkxaso okanye uncedo olufunekayo ukumncedisa ukuba asebenze ekuhlaleni;

(b) ukuchasa le khowudi yokusebenza okanye imimiselo yequmrhu le-South African Bureau of Standards i-SABS elawula ukufikelela kwezisingqongileyo;

(c) ukoyisakala ukuphelisa imiqobo esikela imida ngokungenabulungisa okanye ethintela abantu abakhubazekileyo ukuba bonwabele amathuba alinganayo okanye ukungaphumeleli ukuthabatha amanyathelo okuzama ngokufanelekileyo ukuhlangabeza iimfuno zabantu.

10 Ukungavumeli intetho ephembelela intiyo

(1) Ngokomqathango wecandelo 12, akukho mntu unokupapasha, asasaze, aququzelele okanye anxibelelane ngamagama ngokusekelwe kwisizathu esingavunyelwanga esinye nangaphezulu nakuwuphi umntu, nokungatolikeka njengokubonisa ukuzimisela -

(a) ukuvisa ubuhlungu;

(b) ukwenzakalisa okanye ukuphembelela umonzakalo;

(c) ukukhuthaza okanye ukuphembelela intiyo.

(2) Ngaphandle kokuwisa isigwebo kwangaphambili nakusiphi isisombululo soluntu phantsi kwalo Mthetho, inkundla, ngokwemiqathango yecandelo 21 (2) *(n)* nalapho kufanelekileyo, ingadlulisela naliphi ityala elinento yokwenza nokupapasha, ukusasaza okanye ukunxibelelana ngentetho ephembelela intiyo njengoko kuchazwe kwicandelwana (1), kuMlawuli woTshutshiso loLuntu yena unikwe ulawulo lwezobulungisa kwizityholo zolwaphulo-mthetho ngokwemigqaliselo yomthetho wesiqhelo okanye yowiso-mthetho olunxulumene noko.

11 Ukungavumeli ukuphatha gadalala

Akukho mntu makaphathe nawuphi umntu gadalala

.

12 Ukungavumeli ukusabalalisa okanye ukupapasha ulwazi olucalucalula ngokungenabulungisa

Akukho mntu-

(a) makasabalalise okanye asasaze naluphi ulwazi;

(b) makapapashe okanye abonise nasiphi isaziso-ntengiso okanye isaziso,

esithatyathwa ngokwengqiqo okanye siqondwe njengesiyibonisa ngokucacileyo injongo yocalucalulo olungenabulungisa nakuwuphi umntu: Koxhomekeka ekubeni oko kubandakanya

kunyaniseke kangakanani na kwisiphiwo sobugcisa, kuphando lwezemfundo nelobunzululwazi, nokunika ingxelo enobulungisa nechanekileyo ukufezekisa umdla woluntu okanye ukupapasha naluphi ulwazi, isaziso-ntengiso okanye isaziso ngokwemiqathango yecandelo 16 loMgaqo-siseko, akuvalelwanga leli candelo.

ISAHLUKO 3
UBUNZIMA BOKUFUMANA UBUNGQINA NOKUMISELA UBULUNGISAKHO OKANYE UKUNGABIKHO KOBULUNGISA

13 Ubunzima bokufumana ubungqina

(1) Ukuba ummangali ubeka ityala loluvo lokuqala (a *prima facie)* localucalulo-

(a) ummangalelwa makeze nobungqina, kubungqina obuziswe phambi kwenkundla, bokuba ucalucalulo alukhange lwenzeke ngale ndlela atyholwa ngayo; okanye

(b) ummangalelwa kufuneka eze nobungqina obubonisa ukuba isenzo eso asisekelwanga kwisizathu esingavunyelwanga esinye noba ngaphezulu.

(2) Ukuba ucalucalulo lwenzekile-

(a) ngokomhlathi *(a)* wenkcazelo ‘yezizathu ezingavunyelwanga’, ngako oko alunabulungisa, ngaphandle kokuba ummangalelwa abonise ubungqina bokuba ucalucalulo olo lunobulungisa;

(b) ngokomhlathi *(b)* wengcaciso-magama ‘yezizathu ezingavunyelwanga’ ngako oko alunabulungisa-

(i) ukuba enye nangaphezulu yeemeko ezimiselwe kumhlathi *(b)* wenkcazelo ‘yezizathu ezingavunyelwanga’ imisiwe; yaye

(ii) ngaphandle kokuba ummangalelwa abonise ubungqina bokuba ucalucalulo olo lunobulungisa.

14 Ukumisela ubulungisa okanye ukungabikho kobulungisa

(1) Ayilocalucalulo olungenabulungisa ukuthabatha amanyathelo acwangciselwe ukukhusela okanye ukuphuhlisa abantu okanye udidi lwabantu ababefudula bewavinjiwe amathuba ngenxa yocalucalulo olungenabulungisa okanye amalungu amaqela okanye iindidi ezinjalo zabantu.

(2) Ukumisela ukuba ummangalelwa anike ubungqina bokuba ucalucalulo lunobulungisa, makuqwalaselwe oku kulandelayo:

(a) Umxholo;

(b) imiba ekubhekiswa kuyo kwicandelwana (3);

(c) kukhangelwe ukuba ucalucalulo lwenze umahluko ngokwengqiqo nangokobulungisa phakathi kwabantu ngokweenqobo ezimiselwe ngokungakhethi cala, esekelwe kwisenzo esibandakanyekayo.

(3) Ezi meko kubhekiswa kuzo kwicandelwana (2) *(b)* ziquka oku kulandelayo:

(a) ukuba ucalucalulo lonakalisa okanye kungenzeka luthobe isidima somntu;

(b) ukuchaphazeleka okanye ukuchaphazeleka okunokwenzeka kocalucalulo kummangali;

(c) isikhundla sommangali ekuhlaleni nokuba mhlawumbi uhlutshwa ngumfuziselo yokuvinjwa amathuba okanye yokuba lilungu leqela elihlutshwa ngulo mfuziselo wokuvinjwa amathuba;

(d) uhlobo nobungakanani bocalucalulo;

(e) nokuba ucalucalulo lolohlobo lwenkqubo ethile;

(f) nokuba ucalucalulo lunenjongo esemthethweni;

(g) nokuba lukangakanani ucalucalulo oluphumeza injongo yalo;

(h) nokuba kukho iindlela ezincinane zokuthintela nezingaphantsi ngokuvimba

amathuba okuphumeza le njongo;

(i) nokuba angakanani amanyathelo asele ethatyathwe ngummangalelwa njengafanelekileyo kwimeko enje -

(i) ukulungisa iimpazamo ezithe zavela okanye ezinxulumene nesizathu esingavunyelwanga esinye nangaphezulu; okanye

(ii) ukuvumela ukungafani.

15 Intetho ephembelela intiyo nokuphatha gadalala ayixhomekekanga kumiselo lobulungisa

Kumatyala entetho ephembelela intiyo nokuphatha gadalala icandelo 14 alingeni ndawo.

ISAHLUKO 4
IINKUNDLA ZOKULINGANA

16 Iinkundla zokulingana namagosa azikhokelayo

(1) Ngokweenjongo zalo Mthetho, kodwa ngokuxhomekeke kwicandelo 31-

(a) iNkundla Ephakamileyo nganye iyinkundla yokulingana kwindawo elawula kuyo ;

(b) nayiphi ijaji, ngokwemiqathango yecandelwana (2), ingatyumba ngokubhalwe phantsi yiJaji enguMongameli njengegosa elongameleyo lenkundla yokulingana kwindawo eyijaji kuyo;

(c) uMphathiswa, emva kokucebisana nentloko kulawulo lwemimandla elakhiwe ngokwemigqaliselo yecandelo 1 loMthetho Weenkundla zeeMantyi ka-1944 (Magistrates' Court Act 1944) (UMthetho 32 ka-1944) ngokwesaziso esikwiGazethi -

(i) makatyumbe inkundla kamantyi enye nangaphezulu ukuba ibe yinkundla yokulingana ukunika ulawulo kummandla ochaphazelekayo;

(ii) makanike inkcazelo yendawo elawula kuyo inkundla yokulingana nganye, nokungaquka naliphi inani lezithili, izithilana okanye ezinye indawo zolawulo ezifakelwe ngokwecandelo 2 loMthetho Weenkundla zeeMantyi ka-1944;

(iii) makandise okanye anciphise indawo yolawulo lwenkundla yokulingana nganye;

(iv) makanyule indawo enye nangaphezulu kummandla ngamnye ophantsi kwendawo elawulwa yinkundla yokulingana nganye ukuba ibambe iintlanganiso zenkundla yokulingana;

(v) makarhoxe okanye achase nasiphi isaziso esiphantsi kwalo mhlathi:

Ngokuxhomekeke ekubeni naziphi izityholo ezisalindele ukuxoxwa phambi kwenkundla yokulingana nezingekaqukunjelwa ngelixa lopapasho lwesaziso kwi*Gazethi* njengokuba kucamngcwe kulo mhlathi, kufuneka ziqukunjelwe yiloo nkundla, ngokunga isaziso esinje asikapapashwa; yaye

[Umhlathi. *(c)* endaweni yawo kufakwe icandelo 28 loMthetho 55 ka-2003.]

(d) intloko yommandla wolawulo ocamngcwe kumhlathi *(c)*, ngokwecandelwana (2), mayityumbe ngokubhalwe phantsi nawuphi umantyi okanye umantyi owongezelelweyo njengegosa elongameleyo kwinkundla yokulingana.

(2) Yijaji kuphela, umantyi okanye umantyi owongezelelweyo nosele esiphothule isifundo soqeqesho lokuba ligosa elongameleyo kwinkundla-

(a) phambi komhla wokuqaliswa kwecandelo 31; okanye

(b) njengokuba kucamgcwe kwicandelo 31 (4),

kwaye abamagama abo aqukwe kuluhlu olucamngcwe kwicandelwana (4) *(a)*, bangatyunjwa ngokwemigqaliselo yecandelwana (1).

(3) IJaji enguMongameli kunye neentloko zemimandla yolawulo kufuneka -

(a) ithabathe onke amanyathelo afanelekileyo ukutyumba ubuncinane igosa elinye elongameleyo kwinkundla yokulingana nganye kwindawo elawula kuyo; yaye

(b) ngaphandle kokulibazisa, kwaziswe uMlawuli Jikelele weSebe layo nayiphi ijaji, umantyi okanye umantyi owongezelelweyo osele esiphothule isifundo soqeqesho njengokuba kucamngcwe kwicandelo 31 (4) nesi- (5) okanye otyunjwe ngokwemigqaliselo yecandelwana (1).

(4) Umlawuli Jikelele weSebe makabhale futhi agcine uluhlu lwejaji nganye, umantyi nomantyi owongezelelweyo osele-

(a) siphothule kade isifundo soqeqesho njengokuba sicamngcwe kwicandelo 31 (4) nelesi-(5); okanye

(b) otyunjwe njengegosa elongameleyo kwinkundla yokulingana ngokwemigqaliselo yecandelwana (1).

(5) Igosa elongameleyo kufuneka lenze imisebenzi kunye neemfanelo zalo kunye nokusebenzisa amagunya eliwanikiweyo okanye athiwe jize kulo phantsi kwalo Mthetho okanye nakuwuphi umthetho.

[Icandelo 16 endaweni yayo kufakwe icandelo 1 loMthetho 52 ka-2002.]

17 Oomabhalana beenkundla zokulingana

(1) *(a)* Ngokwecandelwana (2) kunye nemithetho elawula iinkonzo zoluntu, uMlawuli Jikelele weSebe, kwinkundla nganye yokulingana, anganyula okanye atyumbe igosa libe linye nangaphezulu kweli Sebe, okanye anganyula umntu omnye nangaphezulu ngendlela nangeemeko ezimiselweyo, njengoomabhalana benkundla yokulingana, nekulindeleke ukuba bancedise inkundla abayanyaniswe kuyo ukwenza le misebenzi yaye kufuneka benze umsebenzi njengoko unokumiselwa.

[Umhlathi. *(a)* endaweni yawo kufakwe icandelo 2 *(a)* loMthetho 52 ka-2002.]

(b) Ukuba umabhalana kwinkundla yokulingana akanako nangasiphi na isizathu ukwenza loo msebenzi okanye ukuba akukho mabhalana unyuliweyo okanye utyunjiweyo ukuba asebenze kwiinkundla zokulingana phantsi komhlathi (a) igosa elongameleyo elibandakanyekayo, ngaphandle kwecandelwana (2), lingatyumba naliphi igosa elinesakhono kweli Sebe ukuba lisebenze njengomabhalana ngexesha umabhalana okhankanyiweyo engekabinako ukusebenza okanye de kunyulwe okanye kutyunjwe umabhalana phantsi komhlathi (a), njengokuba imeko isitsho.

[Umhlathi. *(b)* endaweni yawo kufakwe icandelo 2 *(a)* loMthetho 52 ka-2002]

(2) Ligosa okanye umntu ocamngcwe kwicandelwana (1) *(a)* kuphela nosele esigqibile isifundo soqeqesho njengomabhalana wenkundla yokulingana -

(a) phambi komhla wokuqala kwecandelo 31; okanye

(b) njengokuba kucamngcwe kwicandelo 31 (6),

nogama lakhe libandakanyiweyo kuluhlu olucamngcwe ngokwecandelwana (3), anganyulwa okanye atyunjwe njengomabhalana phantsi kwecandelwana (1) *(a)*.

[Icandelwana (2) longezwe ngecandelo 2 *(b)* loMthetho 52 ka-2002.]

(3) UMlawuli Jikelele weSebe makabhale futhi agcine uluhlu lwawo onke amagosa okanye lomntu ngamnye osele -

(a) sigqibile isifundo soqeqesho njengokucamngcwa kwaso kwicandelo 31 (6); okanye

(b) etyunjiwe okanye enyuliwe njengomabhalana wenkundla yokulingana ngokwemigqaliselo yecandelwana (1) *(a)*.

[Icandelwana. (3) longezwe ngecandelo 2 *(b)* loMthetho 52 ka-2002.]

(4) UMlawuli Jikelele anganikezela, ngokwemiqathango ayimiseleyo, ngokubhalwe

phantsi nawaphi amagunya awanikiweyo ngokweli candelo ewanike igosa eliqeshwe liSebe, kodwa akanakuthatyathelwa nawaphi amagunya awanikezeleyo yaye angalungisa okanye abekele bucala nasiphi isigqibo somthunywa esenziwe ngelixa asebenzisa amagunya anjengala.
[Icandelwana (4) longezwe ngecandelo 29 loMthetho 52 ka-2003.]

18 Amangqina

Ukuza enkundleni kwamangqina nokuhlawula umrhumo wamangqina kumatyala avela ngenxa yokusetyenziswa kwalo Mthetho makumiselwe nguMphathiswa ngendlela emiselweyo.

19 Imithetho neenkqubo zenkundla

(1) Ngaphandle kokuba kunikwe kulo Mthetho, igatya loMthetho weeNkundla zooMantyi ka -1994 (uMthetho 32 ka-1994) kunye noMthetho weNkundla Ephakamileyo ka-1959 (Supreme Court Act, 1959) (uMthetho 59 ka-1959), kunye nemithetho engaphantsi kweBhodi yeMithetho elawula uMthetho weeNkundla ka-1985 (Courts of Law Act, 1985) (uMthetho 107 ka-1985), usebenza neenguqu ezifanelekileyo ezifunekayo kumxholo weenkundla zokulingana, ukuza kuthi ga ngoku la magatya anxulumene-

(a) nokuqeshwa nokusebenza kwamagosa;
(b) umba nenkonzo yenkqubo;
(c) ukukhupha izigwebo nemiyalelo yenkundla;
(d) ukunika isohlwayo xa ingathotyelwa imiyalelo yenkundla, ngokuthintela ukukhutshwa kwesigwebo okanye imiyalelo nangokudel'inkundla;
(e) ulawulo lwezobulungisa, ngokwecandelwana (3),

kwaye ukuza kuthi ga ngoku alikho elinye igatya esele lenziwe ngokwemimiselo ephantsi kwecandelo 30 lalo Mthetho.

(2) Zonke iinkqubo zenkundla mazenzelwe kwinkundla evulelekileyo, ngaphandle kokuba le nkundla iyalele ngolunye uhlobo ibeka ulawulo lobulungisa kuqala.

(3) *(a)* Ngokuxhomekeka kumhlathi *(b)*, akukho nto ikulo Mthetho eshiya ngaphandle ukuhlangana kwenkundla zoomantyi njengenkundla yokulingana ekunikeni umyalelo ocamngcwe kwicandelo 21 (2), ongaphezulu kolawulo lwemali yenkundla yeemantyi, nalapho umyalelo kufuneka ufakwe ngendlela emisiweyo kwiJaji yeNkundla ePhakamileyo yona inegunya lokuqinisekisa.

(b) ukusebenza komhlathi *(a)*, onxulumene nokuqinisekiswa komyalelo, kusamisiwe de nasiphi isibheno esicamngcwe kwicandelo 23 sibe sesigukunjelwe.

20 Ukungenisa amatyala ngokwemigqaliselo okanye ngaphantsi koMthetho

(1) Amatyala phantsi kwalo Mthetho angafakwa -

(a) nanguwuphi umntu ezimele ngokwakhe;
(b) nanguwuphi umntu egameni lomnye umntu ongenako ukuzimela ngokwakhe;
(c) nanguwuphi umntu omi njengelungu le, okanye omele, iqela okanye udidi lwabantu;
(d) nanguwuphi umntu omele uluntu;
(e) nanguwuphi umbutho omele amalungu awo;
(f) yiKhomishini yoMzantsi Afrika Yamalungelo oLuntu okanye iKhomishini Yokulingana Ngokwesini.

(2) Umntu onqwenela ukungenisa ityala ngokwemigqaliselo okanye phantsi kwalo Mthetho kufuneka, ngendlela emisiweyo, amazise umabhalana wenkundla yokulingana ngomnqweno wakhe wokwenza njalo.

(3) *(a)* Umabhalana wenkundla yokulingana kufuneka, ngelo xesha limisiweyo emva kokufumana isaziso, adlulisele umbandela kwigosa elongameleyo lenkundla yokulingana

echaphazelekayo, yona kufuneka, kwangeli xesha limisiweyo, inike isigqibo sokuba lo mbandela ungaxoxwa kwinkundla yokulingana okanye udluliselwe kwelinye iziko, isigqeba, inkundla, ibhodi okanye enye intlangano efanelekileyo (emva koku kuza kubhekiswa kuyo njengentlangano (forum) eyenye) yona iya kuthi, ngokoluvo lwegosa elongameleyo, iwusingathe ngokufanelekileyo umbandela ngokwemigqaliselo yamagunya nemisebenzi yaloo ntlangano iyenye.

(b) Ukuba igosa elongameleyo ligqiba ekubeni lo mbandela ufanele ukuxoxwa kwinkundla yokulingana, igosa efanelekileyo kufuneka lidlulisele umbandela kumabhalana wenkundla yokulingana yena kufanele ngeli xesha limisiweyo lolu dluliselo anike umhla wokuxoxwa kwalo mbandela.

(4) Igosa elongameleyo, phambi kokwenza isigqibo sokudlulisela umbandela njengokucamngcwa kwawo kwicandelo (3), kufanele aqwalasele zonke iimeko ezinxulumene nalo mbandela, kuquka noku kulandelayo:

(a) Iimeko zabachaphazelekayo buqu ngakumbi ezommangali;

(b) ukufikeleleka kwendawo yayo nayiphi intlangano eyenye ecamngciweyo;

(c) izidingo neminqweno yabachaphazelekayo ngakumbi eyommangali;

(d) uhlobo lwetyala elibekwayo nokuba iziphumo zetyala ziza kuncedisa uphuhliso lomthetho ongumzekelo kunye nenzululwazi yomthetho kule ndawo yomthetho;

(e) izimvo zokusebenza ngokufanelekileyo kwayo nayiphi intlangano eyenye.

(5) *(a)* Ukuba igosa elongameleyo ligqiba kwelokuba lo mbandela udluliselwe kwinkundla eyenye kufuneka, ngendlela emisiweyo, linike umyalelo, oyalela umabhalana wenkundla yokulingana ukuba adlulisela lo mbandela kwintlangano eyenye ekhankanywe kumyalelo.

(b) Xa kusenziwa umyalelo ocamngcwe kumhlathi *(a)*, igosa elongameleyo lingancamathisela kulo myalelo naziphi izimvo elizibona njengezifunekayo ukuze ziqwalaselwe yinkundla eyenye.

(6) Ukufunyanwa kwalo myalelo ekubhekiswa kuwo kwicandelwana (5), umabhalana wenkundla yokulingana makadlulise umbandela lowo kwaye azise abachaphazelekayo kulo mbandela ngokudluliswa kwawo ngendlela emisiweyo.

(7) Ukufunyanwa kwalo myalelo udluliselwe kuyo, intlangano eyenye kufuneka iwuqwalasele ngokufanelekileyo ngokwemigqaliselo yamagunya nemisebenzi yayo.

(8) Ukuba intlangano eyenye ekubhekiswa kuyo kwicandelwana (7)-

(a) ayiphumeleli ukuqwalasela lo mbandela ngexesha elifanelekileyo kwiimeko ezinje: okanye

(b) alinako ukuwusombulula ngokwanelisayo kwelinye icala okanye kuwo omabini amacala achaphazelekayo yaye elinye icala okanye omabini amacala achaphazelekayo acela njalo,

inkundla eyenye, ngokwendlela ebekiweyo, iza kuwubuyisela kwinkundla yokulingana eyawudlulisayo, ukuba inike isigwebo, kwisithuba sexesha elimisiweyo ukusuka kumhla elabuyiselwa ngalo kwinkundla yokulingana.

(9) UMbuso kunye namaziko omgaqo-siseko, ngokufanelekileyo kangangoko anako, makancede nawuphi umntu onqwenela ukufaka ityala ngokwemigqaliselo ephantsi kwalo Mthetho, phakathi kweminye, ngokuqinisekisa ukuba umntu udluliselwa kwicala elifanelekileyo ukuze lithathe inyathelo elifanelekileyo ukusombulula umbandela ophethweyo.

21 Amagunya nemisebenzi yenkundla yokulingana

(1) Inkundla yokulingana phambi kokuthabatha ityala elingenisiweyo ngokwemigqaliselo ephantsi kwalo Mthetho maliqhube uphando ngokwendlela emisiweyo ukufumanisa ukuba ucalucalulo olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala, njengoko kunganjalo, kwenzekile ngokwenene, njengokuba kutyholwa.

(2) Emva kokubamba uphando, inkundla inganika umyalelo ofanelekileyo kulo mba, iquka-

(a) umyalelo obambeleyo;

(b) umyalelo obhengezayo;

(c) umyalelo onika isisombululo phakathi kwabachaphazelekayo kwityala njengomyalelo wenkundla;

(d) umyalelo wentlawulo yawo nawuphi umonakalo ngokobungqina ngokubhekiselele kuyo nayiphi ilahleko yemali, kuquka ilahleko yexesha elizayo, okanye ngokubhekiselele kukonakaliswa kwesidima, intlungu nokuhlupheka okanye ukuhlupheka ngokomoya nangokwengqondo ngenxa yocalucalulo olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala okuchaphazelekayo;

(e) emva kokuphulaphula izimvo zabachaphazelekayo,engekho ummangalelwa, izimvo zommangali ngalo mbandela, umyalelo wokuhlawula umonakalo njengesohlwayo kwiqumrhu okanye kumbutho ofanelekileyo;

(f) umyalelo othintela ucalucalulo olungenabulungisa okanye ukuyalela ukuba kuthatyathwe amanyathelo okuphelisa ucalucalulo olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala;

(g) umyalelo omisa amathuba akhethekileyo kunye namalungelo awodwa awayengavunyelwanga ngokungenabulungisa kwiimeko azifumana kuzo ummangali ochaphazelekayo;

(h) umyalelo wokusetyenziswa kwamanyathelo akhethekileyo okuqwalasela ucalucalulo olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala okuchaphazelekayo;

(i) umyalelo onyanzelisa ukubandakanywa kweqela okanye udidi lwabantu ngummangalelwa;

(j) umyalelo wokucela uxolo olungenamiqathango;

(k) umyalelo ofuna ukuba ummangalelwa aphicothe imigaqo-nkqubo ethile kunye neendlela zokwenza ngokokumiselwa yinkundla;

(l) umyalelo ofanelekileyo osisithintelo, kuqukwa nengcebiso eya kwigunya elifanelekileyo ukuba limise okanye lirhoxise iphepha-mvume laloo mntu;

(m) umyalelo ofuna ukuba ummangalelwa enze rhoqo ingxelo yenkqubela aseleyenzile kwinkundla okanye kwiziko lomgaqo-siseko malunga nokuphunyezwa komyalelo wenkundla;

(n) umyalelo oyalela umabhalana wenkundla yokulingana ukuba angenise umbandela kuMphathi wezoTshutshiso Loluntu onegunya lokulimisa ngengetyala lolwaphulo-mthetho ngokwemigqaliselo yomthetho ongabhalwanga okanye uwiso-mthetho olusemgceni;

(o) umyalelo ofanelekileyo weendleko obhekisa nakuliphi iqela ngenxa yetyal

(p) umyalelo wokuthobela naliphi igatya lalo Mthetho.

(3) Umyalelo omiswe yinkundla yokulingana ngokwemigqaliselo okanye phantsi kwalo Mthetho unako ukuchaphazela umyalelo wenkundla ekhankanyiweyo onikezelwe ngesenzo sembambano, apho kufanelekileyo.

(4) Inkundla, ngelixa okanye emva kophando, ingadlulisela-

(a) ukukhathazeka kwayo ngalo naliphi ityala eliphambi kwayo, ngakumbi kwimeko ezingisayo yokwaphulwa okanye ukungaphumeleli ukuthobela igatya lalo Mthetho okanye kwimeko yocalucalulo jikelele olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala okujoliswe nakuliphi iziko elifanelekileyo lomgaqo-siseko ukuze liphandwe nangakumbi;

(b) nawaphi amatyala aphambi kwayo ajoliswe nakuliphi iziko elifanelekileyo

nomgaqo-siseko okanye iqumrhu elifanelekileyo ukuze kujongwanwe nolamlo, uxolelwaniso nothethathethwano.

(5) Le nkundla inawo onke amagunya ongezelelweyo afanelekileyo okanye angabalulekanga kwimisebenzi nasekusebenziseni amagunya ayo kuquka igunya lokunika imiyalelo yokuthatha inxaxheba kwingxoxo okanye izithintelo.

22 Abancedisi-jaji

(1) Nakuwaphi amatyala ngokwemigqaliselo okanye ngaphantsi kwalo Mthetho, inkundla, ngokucelwa naleliphi icala, okanye ngokuthanda kwayo ukuba igosa elongameleyo libona oko kukwilungelo lobulungisa, lingabiza umntu omnye nokuba babini abafanelekileyo yaye befumaneka nabazimiseleyo ukuhlala basebenze njengabancedisi-jaji.

(2) Abancedisi-jaji banyulwa ngokwemigqaliselo yecandelwana (1) ngokwemiqathango yecandelwana (3), bathatyathwa njengamalungu enkundla ukufeza iinjongo zalo Mthetho.

(3) Nawuphi umbandela womthetho ovelayo ofuna kuthathwe isigqibo ngetyala elo liphethweyo kunye nawuphi umbuzo ofumanisa ukuba umbandela ofuna isigqibo ngumbandela oyinyaniso okanye umbandela odinga isigqibo somthetho masinikwe ligosa elongameleyo ngokwendlela emisiweyo.

(4) Kuyo yonke imibandela eyinyaniso okufunyanisiweyo okanye isigqibo sesininzi samalungu enkundla kuko okufunyanisiweyo okanye siso isigqibo senkundla, ze apho kukho umncedisi-jaji omnye, okufunyanisiweyo okanye isigqibo senkundla kube siso esisebenzayo.

(5) *(a)* Ukuba umncedisi-jaji uyasweleka okanye ngokoluvo lwegosa elongameleyo akanako ukusebenza njengomncedi-jaji okanye akakho nangasiphi na isizathu okanye uyalelwe ukuba azikhwebule okanye uzikhwebule ngokwakhe nangaliphi ixesha phambi kokuqukunjelwa kwetyala, igosa elongameleyo, ukuba libona oko kufaneleke njengobulungisa nasemva kokucinga nzulu ngempikiswano ezingeniswe ngababandakanyekayo kwelo tyala okanye ngabameli bomthetho-

(i) lingayalela ukuba ityala liqhutywe phambi kwelungu okanye amalungu aseleyo enkundla;

(ii) lingayalela ukuba ityala liqalwe ngokutsha; okanye

(iii) ukuba umncedisi-jaji akakho, lingalihlehlisa ityala de abe uza kubakho umncedisi-jaji.

(b) Igosa elongameleyo malinike izizathu ngawo nawuphi umyalelo ekubhekiswa kuwo kumhlathana (i) okanye (ii).

(6) *(a)* Igosa elongameleyo lincediswa ngabancedisi-jaji kuphando nalapho ummangalelwa abekwa ityala malirekhode izizathu zolu luvo lwalo-

(i) ukuba loo mmangalelwa akancediswa ngummeli womthetho; yaye

(ii) ukuba igosa elongameleyo linoluvo lokuba abancedisi-jaji abandakanyekayo bafumanise okungachanekanga.

(b) Umabhalana wenkundla yokulingana kufuneka kwakamsinyane kangangoko anako, angenise ezo zizathu kunye nerekhodi kwinkundla yezibheno ebandakanyekayo ukuba inike ezayo izimvo ngendlela emisiweyo.

(c) Inkundla yezibheno inegunya lokuqinisekisa oko kufunyanisiweyo okanye yenze nawuphi umyalelo ofanelekileyo ngoko kufunyanisiweyo ukuba ngokwezimvo zenkundla yezibheno bekufanele ukwenziwa kwiimeko ezinjalo.

23 Izibheno nophononongo

(1) Nawuphi umntu okhathazwe nanguwuphu umyalelo wenkundla yokulingana ngokwemigqaliselo okanye phantsi kwalo Mthetho, kwangeli xesha nangendlela emisiweyo, angafaka isibheno esiphikisana nalo myalelo kwiNkundla ePhezulu yona inegunya okanye kwiNkundla ePhakamileyo yeziBheno, njengokuba kunokwenzeka.

(2) Kwisibheno, iNkundla ePhezulu okanye iNkundla ePhakamileyo yeziBheno, njengoko kunokwenzeka, ingenza umyalelo onje ukuba ikubona kufanelekile.

(3) Nangona kwicandelwana (1), nawuphi umntu okhathazwe nanguwuphi umyalelo owenziwe yinkundla yokulingana, phantsi komqathango wemimiselo yeNkundla yoMgaqo-siseko, angafaka isibheno ngokungqalileyo kwinkundla yoMgaqo-siseko.

(4) Kwimeko apho kwenziwe izigqibo ezichaseneyo ngamagosa ongameleyo ngomba phantsi komqathango womhlathi *(b)* wengcaciso-magama 'yezizathu ezingavunyelwanga', uMphathiswa angadlulisela ityala elinje kwiNkundla ePhakamileyo yeziBheno okanye kwiNkundla yoMgaqo-siseko ukuba zimiselwe.

(5) *(a)* Ukuba igosa elongameleyo kwinkundla kamantyi linika limisela ngokunxulumene nento olusekelwe kuyo ucalucalulo ekubhekiswa kulo kumhlathi *(b)* wengcaciso-magama 'yezizathu ezingavunyelwanga', isigqibo kufuneka, emva kokuqukunjelwa kwetyala nangendlela emisiweyo, singeniswe kwiNkundla ePhezulu enegunya lokuliqwalasela kwakhona.

(b) INkundla ePhezulu kufuneka, emva kokuqwalasela ityala, yenze ummiselo ngokwesizathu ekubhekiswa kuso kwicandelwana (5) *(a)* ze emva koko inike nawuphi umyalelo ngokwemigqaliselo yalo Mthetho ukuba ikubona kufanelekile.

(c) Ukusebenza kwecandelwana (5) *(a)* kusamisiwe de nasiphi isibheno esicamngcwe kweli candelo sibe sesiqukunjelwe.

ISAHLUKO 5
UKUKHUTHAZA UKULINGANA

24 Uxanduva jikelele lokukhuthaza ukulingana

(1) UMbuso unomsebenzi noxanduva lokukhuthaza nokuphumeza ukulingana.

(2) Bonke abantu banomsebenzi noxanduva lokukhuthaza ukulingana.

[Umhla wokuqalisa kwecandelo 24: uza kwaziswa.]

25 Umsebenzi woMbuso wokukhuthaza ukulingana

(1) UMbuso, apho kufanelekileyo uncediswa ngamaziko anxulumene nomgaqo-siseko-

(a) mawuphuhlise uvundliso ngamalungelo asisiseko ukuze kuphuculwe umoya wokuvisisana, ukuhloniphana nokulingana;

(b) mawuthabathe amanyathelo okuphuhlisa nokuphumeza iinkqubo ukuze kuphuculwe ukulingana; yaye

(c) apho kufunekayo okanye kufanelekileyo-

(i) uphuhlise isicwangciso-nkqubo ukuqwalasela naluphi ucalucalulo olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala;

(ii) umise olunye uwiso-mthetho oluzama ukukhuthaza ukulingana kwaye useke inkqubo-sikhokelo yowiso-thetho oluhambelanayo neenjongo zalo Mthetho;

(iii) uphuhlise iindlela zokwenza izinto njengokuba zicamgcwe kulo Mthetho ukuze kukhuthazwe ukulingana, kwakhiwe imikhomba-ndlela, equka iindlela zokwenza izinto ezamkelekeyo;

(iv) unike uncedo, icebiso noqeqesho kwimiba yokulingana;

(v) uphuhlise iindlela ezifanelekileyo zangaphakathi ezijongene nezikhalazo zocalucalulo olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala;

(vi) wenze amaphulo osabalaliso-lwazi ukwazisa lo Mthetho.

(2) IKhomishini yoMzantsi Afrika yamaLungelo Abantu kunye namanye amaziko anxulumene noMgaqo-siseko, ukongeza nakuyiphi imvumelwano ebophelelayo,

ngokwemigqaliselo yoMgaqo-siseko okanye nawuphi umthetho, ingacela nayiphi inxalenye engaphantsi kwengcacio-magama yoMbuso okanye nawuphi umntu ukuba anike ulwazi nangawaphi amanyathelo anxulumene nokuphumeza ukulingana kuqukwa, apho kufanelekileyo, ngokowiso-mthetho nokusetyenziswa nokuthotyelwa kowiso-mthetho, iindlela zokwenza izinto neenkqubo.

(3) Ukongeza kumagunya nemisebenzi yamaziko omgaqo-siseko la maziko ayakwazi-

(a) ukuncedisa abamangali ekungeniseni amatyala kwinkundla yokulingana, ngakumbi abamangali abahlelelekileyo;

(b) ukwenza uphando kumatyala banike neengcebiso njengoko kuyalelwa yinkundla ngokunxulumene nokwaphulwa kwalo Mthetho ngokuzingisayo okanye amatyala ocalucalulo olungenabulungisa, intetho ephembelela intiyo okanye ukuphatha gadalala okudluliselwe kuwo yinkundla yokulingana;

(c) ukucela kwiSebe, ngendlela emisiweyo, iingxelo zarhoqo ngokubhekiselele kumanani amatyala kunye nobunjani neziphumo zawo.

(4) Bonke aBaphathiswa mabaphumeze amanyathelo ngokwemithombo yobutyebi efumanekayo, ajoliswe ekuzuzeni ukulingana kwiindawo eziluxanduva lwabo;

(a) ngokuphelisa naluphi uhlobo localucalulo olungenabulungisa okanye ukuqhuba kusetyenziswa ukungalingani nakuwuphi na umthetho, umgaqo-nkqubo okanye isenzo kwiindawo abaphethe kuzo aBaphathiswa; kunye

(b) nokulungisa nokuphumeza izicwangciso zokulingana ngendlela emiselweyo, omxholo wazo mawuquke ixesha elisikiweyo lokuphunyezwa kwezicwangciso ezinjalo, ezimiselwe ngokubonisana noMphathiswa weZezimali.

(5) *(a)* Izicwangciso zokulingana, ingekapheli iminyaka emibini emva kokuqaliswa kwalo Mthetho, mazingeniswe kwiKhomishini yoMzantsi Afrika yamaLungelo aBantu ukuze ziqwalaselwe ngendlela emisiweyo.

(b) IKhomishini yoMzantsi Afrika yamaLungelo aBantu mayicebonisane neKhomishini Yokulingana ngokweSini xa kuqwalaselwa izicwangciso ezicamngcwe kumhlathi *(a)*.

[Umhla wokuqalisa kwecandelo. 25: uza kwaziswa.]

26 Uxanduva lwabantu abasebenza kwicandelo loluntu ukukhuthaza ukulingana

Ngumsebenzi wakhe nawuphi umntu osebenzisana ngokungqalileyo nangokungangqalanga noMbuso okanye esebenzisa igunya loluntu ukukhuthaza ukulingana-

(a) ngokwamkela izicwangciso ezifanelekileyo zokulingana, iikhowudi, iindlela zokumisa kakuhle kunye nezinye amanyathelo afanelekileyo ukukhuthaza ukulingana ngendlela esebenzayo kwiindawo abasebenza kuzo;

(b) ngokuphumeza nokubeka esweni ukunikwa inkxaso kwezicwangciso zokulingana, iikhowudi neendlela zokumisa kakuhle ezakhiwe ngabo; kunye

(c) *no*kwenza iingxelo rhoqo eziya kwiziphathamandla ezibeke esweni okanye kumaziko akwanjalo njengoko kunikiwe kwimimiselo, apho kufanelekileyo.

[Umhla wokuqaliswa kwecandelo. 26: uza kwaziswa.]

27 Ukuzinikela ngokwasentlalweni kwabo bonke abantu ukukhuthaza ukulingana

(1) Ukulandela icandelo 26, bonke abantu, imibutho engekho phantsi kukarhulumente, imibutho yasekuhlaleni kunye namaziko enkcubeko kufuneka bakhuthaze ukulingana kubudlelwane babo nezinye izigqeba nakwimisebenzi yabo noluntu.

(2) UMphathiswa kufuneka aphuhlise imimiselo enxulumene nalo Mthetho kwaye abanye aBaphathiswa bangaphuhlisa imimiselo enxulumene neminye iMithetho efuna iinkampani, amafelandawonye, ubuhlakani, imibutho, imibutho yezemidlalo, izigqeba nemibutho yoshishino, apho kufanelekileyo, ngokobukhulu bazo, ubutyebi nefuthe, ukulungisa

izicwangciso zokulingana okanye ukuthobela iindlela zokwenza izinto ezimiselweyo okanye banike ingxelo kwisigqeba okanye kwiziko ngeendlela zokukhuthaza ukulingana.
[Umhla wokuqalisa kwecandelo. 27: uza kwaziswa.]

28 Amanyathelo awodwa okukhuthaza ukulingana ngokunxulumene nobuhlanga, isini nokukhubazeka

(1) Ukuba kufunyaniswe ekutshutshiseni nolwaluphi ulwaphulo-mthetho ukuba ucalucalulo olungenabulungisa ngokobuhlanga, isini okanye ukukhubazeka ludlale indima ekwaphulweni komthetho, oku makuthatyathwe njengesenzo esingunobangela xa kukhutshwa isigwebo.

(2) IKhomishini yoMzantsi Afrika yamaLungelo aBantu kufuneka, kwingxelo yayo ekubhekiswa kuyo kwicandelo 15 loMthetho weKhomishini yamaLungelo aBantu ka-1994 (Human Rights Commission Act, 1994) (uMthetho 54 ka-1994), iquka uvavanyo lobungakanani bocalucalulo olungenabulungisa ngokobuhlanga, isini nokukhubazeka okusaqhubayo kwiRiphabhliki, iziphumo neengcebiso ngeendlela ezingcono zokusombulula ezi ngxaki.

(3) *(a)* UMbuso, amaziko enza imisebenzi yoluntu kunye nabo bonke abantu banemisebenzi noxanduva ngokukodwa-

(i) lokuphelisa ucalucalulo ngokobuhlanga, isini nokukhubazeka;

(ii) lokukhuthaza ukulingana ngokobuhlanga, isini nokukhubazeka.

(b) Ukwenza le misebenzi noxanduva ekubhekiswa kulo kumhlathi *(a)*, uMbuso, amaziko asebenza ngoluntu, apho kufanelekileyo kukwahambelana, amaqumrhu anegunya nangenagunya, kufuneka-

(i) aphicothe imithetho, imigaqo-nkqubo neendlela ekwenziwa ngazo izinto ngenjongo yokuphelisa lonke ucalucalulo;

(ii) amiswe imithetho efanelekileyo, kuphuhliswe imigaqo-nkqubo ebonisa inkqubela yaye kuqaliswe iindlela zokwenza izinto ukuze kupheliswe ucalucalulo ngokobuhlanga, isini nokukhubazeka;

(iii) amkele izicwangciso ezisebenzayo ukukhuthaza nokuphumeza ukulingana ngokobuhlanga, isini nokukhubazeka, kunye

(iv) nokubeka phambili ukupheliswa kocalucalulo olungenabulungisa nokukhuthaza ukulingana ngokobuhlanga, isini nokukhubazeka.

29 Uluhlu olubonisa izenzo ezingenabulungisa kumacandelo athile

(1) Ngaphandle kokugxijwa ngokuwenza lula amagatya alo Mthetho, iShedyuli yalo Mthetho yenzelwe ukubonisa nokugxininisa kokwenziwayo okungenabulungisa okanye okunokwenzeka kungabinabulungisa, okusatyalaliswayo nokudinga ukuqwalaselwa.
[Umhla wokuqaliswa kwecandelwana. (1): 1 Septemba 2000.]

(2) UMbuso, apho kufanelekileyo, mawuqinisekise ukuba amanyathelo owiso-mthetho namanye ayathatyathwa ukuqwalasela okwenzekayo ekubhekiswa kuko kwicandelwana (1).
[Umhla wokuqaliswa kwecandelwana. (2): uza kwaziswa.]

(3) UMphathiswa, ngokucetyiswa yiKomiti ePhonononga ukuLingana, ngokuqhubekayo, uvavanya unxulumano lokwenzekayo okuqulethwe kwiShedyuli ngenjongo zokwandisa, ukuguqula, ukutshintshatshintsha okanye ukulungisa uluhlu lokwenzeka kule Shedyuli.
[Umhla wokuqaliswa kwecandelwana. (3): 1 Septemba 2000.]

(4) Le Shedyuli kujongwe ukuba inike uluhlu olubonisa izenzo ezicalucalula okanye ezingacalucalula ngokungenabulungisa ukuze-

(a) iqwalasele kwaye iphelise ezi zenzo; kwaye

(b) incedise abantu ekutolikeni amava abo kunye nokwenzekayo

[Umhla wokuqaliswa kwecandelwana. (4): 1 Septemba 2000.]

(5) Uluhlu olubonisa izenzo kwiShedyuli akukuphela kwalo omaluqwalaselwe luhlaziywe

rhoqo yiKomiti ePhonononga ukuLingana
[Umhla wokuqaliswa kwecandelwana. (5): 1 Septemba 2000.]

ISAHLUKO 6
AMALUNGISELELO JIKELELE NOKUPHUNYEZWA KOMTHETHO
30 Imimiselo

(1) UMphathiswa, nalapho kukho imfuneko ngokweemeko, angenza imimiselo ehambelana noku-

(a) iinkqubo emazilandelwe okanye ezinxulumene nophando ngokwemigqaliselo okanye ngaphantsi kwalo Mthetho, kuquka indlela emakaqhutywe ngayo amatyala, ukudluliswa kwemibandela njengokuba kucamngcwe kwicandelo 20 kunye nokuxoxwa kwemiba engxamisekileyo;

(b) indlela esingayo nasiphi isicelo, igunya, isatifiketi, imvume, isaziso, umyalelo, inkqubo, ubhaliso okanye isamani emayenziwe, inikezelwe, ikhutshwe okanye igcinwe ngokwemigqaliselo okanye ngaphantsi kwalo Mthetho, kunye nayiphi enye indlela efunekayo ukuqhuba ngokwamagatya alo Mthetho;

(c) ukunikezelwa uncedo lomthetho ngeendleko zoMbuso kumatyala afanelekileyo ngokucebisana neBhodi yoNcedo loMthetho;

(d) ukuvela kwabantu enkundleni egameni lemibutho nokungaquka abantu abakulungeleyo ukuvela enkundleni kodwa bengengawo amagqwetha okanye amagqwetha amakhulu;

(e) ukunyula, amagunya, iimfanelo nemisebenzi kamabhalana wenkundla yokulingana;

(f) Ukubakho kwamangqina kumatyala asebenzisa lo Mthetho nokuhlawulwa kwemirhumo kumangqina;

(g) ukuqinisekiswa kwemiyalelo yenkundla ekhutshwa ziinkundla zoomantyi ezisetyenziswa njengenkundla yokulingana njengokuba kucamngcwe kwicandelo 19 (3) *(a)*;

(h) inkqubo emayilandelwe, kunye neenqobo emazisetyenziswe, xa kutyunjwa naxa kubhaliswa abantu basekuhlaleni abafanelekileyo nabafumanekayo ukuza kusebenza njengabancedisi-jaji kwinkundla yokulingana nganye;

(i) Indlela emayilandelwe xa kusabelwa abancedisi-jaji umsebenzi ngokubhekiselele ematyaleni aqhutywa ngokwemigqaliselo yalo okanye ephantsi kwalo mthetho;

(j) Izinto ezidinga ukuqatshelwa yinkundla yokulingana xa ithabatha isigqibo sokuba ibize abancedisi-jaji kulawulo lobulungisa;

(k) ukwenza isifungo okanye ukunika isiqiniselo ngabancedisi-jaji;

(l) Umsebenzi wegosa elongameleyo kunye nenkqubo emayilandelwe kumatyala apho inkundla yamatyala incediswa ngancedisi-jaji;

(m) Ukurhoxa kwabancedisi-jaji nenkqubo emayilandelwe kwityala elinokurhoxa okunjalo;

(n) Indlela yokuziphatha yabancedisi-jaji abanjalo, neendlela zokunyanzelisa indlela yokuziphatha, kukuqa ukuzimela komncedisi-jaji ukuba uthe waphula naliphi igatya lendlela yokuziphatha;

(o) ukuseka indlela yokujongana nasiphi isikrokro okanye isikhalazo ngumncedisi-jaji okanye ngakumncedisi-jaji;

(p) ukuqeqeshwa kwabancedisi-jaji;

(q) ukuhlawulwa kwezibonelelo kubancedisi-jaji;

(r) nawuphi omnye umbandela ofanelekileyo omawumiselwe ukuze imiswe kakuhle inkonzo yabancedisi-jaji benkundla yokulingana;

(s) iinkqubo emazilandelwe enkundleni okanye ngokunxulumene nezibheno okanye

nophononongo njengokuba kucamngcwe kwicandelo 23;

(t) iingxelo ezicamngcwe kumacandelo 25 (3) *(c)* nelama- 26 *(c)* kunye nezicwangciso zokulingana njengokuba zicamngcwe kwicandelo 25 (4) *(b)* ne- (5) *(a)* kunye necandelo 27 (2);

(u) ukutolikwa kwalo Mthetho ngazo zonke iilwimi ezisemthethweni nokusabalaliswa kwawo njengokuba kucamngcwe kwicandelo 31 (2) *(b)*;

(v) amagunya nemisebenzi yeKomiti ePhonononga ukuLingana njengokuba kucamngcwe kwicandelo 33;

(w) nawuphi umbandela ofunekayo okanye ovunyelweyo ukuba umiselwe ngokommiselo ophantsi kwalo Mthetho;

(x) nawuphi umbandela ofanelekileyo ukuba ungamiselwa ukuphumeza iinjongo zalo Mthetho.

(2) Nawuphi ummiselo owenziwe phantsi kweli candelo nongakhokelela kwinkcitho yoMbuso kufuneka wenziwe ngokucebisana noMphathiswa weZezimali.

(3) Ummiselo owenziwe phantsi kweli candelo ungabalula ukuba nawuphi umntu ochasa eli gatya okanye ongaphumeleli ukulithobela afunyaniswe enetyala lokwaphula umthetho yaye ukuba ufunyanwa enetyala uza kuhlawuliswa okanye avalelwe entolongweni iinyanga ezingadluli kwezili-12.

(4) *(a)* nawuphi ummiselo owenziwe phantsi kweli candelo kufuneka uthiwe thaca phambi kwePalamente iintsuku ezingama-30 phambi kokupapashwa kwi*Gazethi*, ukuba iPalamente isekwiseshoni.

(b) Ukuba iPalamente ayikho kwiseshoni njengokuba kucamngcwe kumhlathi *(a)*, le mimiselo mayingeniswe kuSomlomo wePalamente, kwiintsuku ezingama-30 phambi kokupapashwa kwi*Gazethi*.

(5) Imimiselo eyenziwe ngokwemigqaliselo yeli candelo, ngakumbi icandelo (1) *(a)* elinxulumene nenkqubo yophando, kufuneka, kangangoko kunokwenzeka, kuqinisekiswe ukuba ukusetyenziswa kwalo Mthetho kulula, kunobulungisa yaye kuyafikeleleka.

31 Ukuphunyezwa koMthetho

(1) Ngaphandle kwecandelo 16 (1) akukho matyala angangeniswa nakuyiphi inkundla ngaphandle kokuba igosa elongameleyo kunye nomabhalana omnye nangaphezulu bayafumaneka.

(2) Ngeenjongo zokwenza lo Mthetho usebenze ngokuzeleyo nokwenza lo Mthetho ufikeleleke kangangoko kunokwenzeka-

(a) yaye ukwenza ukuba lisebenze icandelwana (1), iijaji, oomantyi okanye oomantyi obongeziweyo, ngokwemfuno zelo xesha, oomabhalana ekubhekiswa kubo kwicandelwana (1) -

(i) bangatyunjwa njengamagosa ongameleyo; kwaye

(ii) banganyulwa okanye batyunjwe njengoomabhalana,

ngokwahlukana kwabo, ukusebenza kwinkundla enye nangaphezulu yokulingana;

(b) UMphathiswa kufuneka enze uMthetho ufumaneke ngazo zonke iilwimi ezisemthethweni ngendlela emisiweyo ingekapheli iminyaka emibini emva kokuqaliswa kwalo Mthetho.

(3) UMlawuli Jikelele weSebe kufuneka athathe onke amanyathelo afanelekileyo ngokwemithombo yobutyebi efumanekayo kwiSebe ukuqinisekisa ukuba umabhalana uyafumaneka kwinkundla nganye yeRiphabhliki.

(4) Intloko yezoBulungisa kufuneka, ngokubonisana neKhomishini yeNkonzo zoBulungisa kunye neKhomishini yooMantyi, baphuhlise umxholo wezifundo zoqeqesho ngenjongo yokwakha uvimba wamagosa ongameleyo aqeqeshekileyo nanezakhono

azimiseleyo nanamava ngenjongo yokuphatha izimangalo enkundleni njengokuba kucamngcwe kulo Mthetho, ngokunika –

(a) uqeqesho oluphathelele kwintlalo kumagosa ongameleyo;

(b) nezithethe ezifanayo, imigangatho kunye neenkqubo emaziqatshelwe ngamagosa ongameleyo ekwenzeni imisebenzi neemfanelo zawo nasekusebenziseni amagunya awo .

(5) Intloko yezoBulungisa, ngokucebisana neKhomishini yeNkonzo yoHlaziyo, iKhomishini yooMantyi kunye noMphathiswa, baphumeze izifundo zoqeqesho ezicamngcwe kwicandelwana (4).

(6) UMlawuli Jikelele weSebe kufuneka aphuhlise kwaye aphumeze isifundo soqeqesho soomabhalana beenkundla zokulingana ngenjongo yokwakha uvimba woomabhalana abaqeqeshiweyo nabanobuchule, abazimiseleyo nabanamava ukuze benze imisebenzi neemfanelo zabo njengokuba kucamngcwe kulo Mthetho, ngokunika -

(a) uqeqesho oluphathelele kwintlalo koomabhalana; kunye

(b) nezithethe ezifanayo, imigangatho kunye neenkqubo emaziqatshelwe ngoomabhalana xa besenza imisebenzi neemfanelo zabo.

(7) UMphathiswa kufuneka angenise ingxelo kwiPalamente, njengoko kumiselwe, enxulumene nomxholo kunye nokuphunyezwa kwezifundo zoqeqesho ekubhekiswa kuzo kwicandelwana (4) no- (5).

[Icandelo. 31 endaweni yalo kufakwe icandelo 3 loMthetho 52 ka-2002.]

ISAHLUKO 7
UPHONONONGO LOMTHETHO, ISIHLOKO ESIFUTSHANE KUNYE NOKUQALISWA

32 Ukusekwa kweKomiti yoPhononongo lokuLingana

UMphathiswa makathi, ngokukhawuleza, xa kusaziswa lo Mthetho, ngesaziso esikhutshwa kwi*Gazethi*, aseke iKomiti yoPhononongo lokuLingana ze anyule amalungu, aquka-

(a) igosa lezobulungisa eliyintloko nelifunde ngokufanelekileyo;

(b) uSihlalo weKhomishini yoMzantsi Afrika yamaLungelo aBantu;

(c) uSihlalo weKhomishini yokuLingana ngokweSini;

(d) ummeli wombutho wasekuhlaleni;

(e) ingcali kumba wamalungelo, ngakumbi ilungelo lokulingana;

(f) ilungu leNdlu yeSizwe yoWiso-mthetho;

(g) ilungu leBhunga leSizwe lamaPhondo.

[Umhla wokuqalisa kwecandelo. 32: 1 Septemba 2000.]

33 Amagunya, imisebenzi nexesha lokusebenza e-ofisini kweKomiti yoPhononongo lokuLingana

(1) IKomiti yoPhononongo lokuLingana -

(a) mayicebise uMphathiswa ngokusebenza kwalo Mthetho;

(b) mayicebise uMphathiswa ngemithetho echaphazela ukulingana;

(c) mayingenise rhoqo iingxelo kuMphathiswa ngokusebenza kwalo Mthetho, ibonisa nokuba iinjongo zalo Mthetho kunye noMgaqo-siseko ziphunyeziwe ikwanika neengcebiso ngokulungiswa okufanelekileyo kuMthetho ukuphucula ukusebenza kwawo;

(d) inamanye amagunya nemisebenzi njengoko kumiselwe.

(2) IKomiti yoPhononongo lokuLingana ingaqhuba umsebenzi wayo kunye namatyala kwiintlanganiso zayo xa ibona kufanelekile.

(3) Amalungu eKomiti yoPhononongo lokuLingana ekubhekiswa kuwo kwicandelo 32

(a), *(d)* no-*(e)* anyulelwe ixesha eliyiminyaka emihlanu yaye asenokonyulwa ngokutsha ekupheleni kwexesha le-ofisi.

(4) Eminye imigqaliselo neemeko zokonyulwa kwamalungu eKomiti yoPhononongo lokuLingana inje ngokuba imiselwe.

(5) Umsebenzi wolawulo owayamene nokwenziwa komsebenzi weKomiti yoPhononongo lokuLingana kufanele wenziwe ngamagosa atyunjwe nguMlawuli Jikelele weSebe.

(6) Amalungu eKomiti yoPhononongo lokuLingana anelungelo lokufumana imivuzo, izibonelelo namanye amaqithiqithi njengokuba enokumiswa nguMphathiswa ngokucebisana noMphathiswa wezeMali.

[Umhla wokuqalisa kwecandelo. 33: 1 Septemba 2000.]

34 Imithetho-siseko elawula umba we-HIV/AIDS, ubuzwe, ubume bentlalo noqoqosho kunye noxanduva nobume bosapho

(1) Ngokubona ubungqina oboyisayo bobaluleko, indlela obuchaphazela ngayo intlalo nobulikhonkco eliqhoshekele kubuhlwempu ucalucalulo ngokobume be-HIV/AIDS, isimo sentlalo noqoqosho, ubuzwe, uxanduva losapho nobume bosapho-

(a) uqwalaselo olulodwa malunikwe kuquko lwezi zizathu kumhlathi *(a)* wengcaciso-gama ‘izizathu ezingavunyelwanga’ nguMphathiswa;

(b) IKomiti yoPhononongo lokuLingana, kufuneka kanye ngonyaka, iphande ze inike iingcebiso ezifanelekileyo kuMphathiswa.

[Umhla wokuqaliswa kwecandelwana (1): 1 Septemba 2000.]

(2) Akukho nto kweli candelo-

(a) echaphazela igunya eliqhelekileyo lenkundla ukumisela iimpikiswano ezinokusonjululwa ngokusebenzisa umthetho kwizizathu ezinje;

(b) ethintela ummangali ukuba afake isimangalo nangaziphi izizathu kwinkundla yomthetho;

(c) ethintela inkundla ekumiseleni ukuba naziphi kwezi zizathu zizizathu ngokwemigqaliselo yomhlathi *(b)* ngokwengcaciso-gama ‘izizathu ezingavunyelwanga’ okanye ziqukiwe kunye nezinye izizathu, esinye nangaphezulu ezidweliswe kumhlathi *(a)* wenngcaciso-gama ‘izizathu ezingavunyelwanga’.

35 Isihloko esifutshane nokuqaliswa

(1) Lo Mthetho ubizwa ngokuba nguMthetho wokuKhuthaza ukuLingana nokuThintela uCalucalulo Olungenabulungisa, uMthetho 4 ka-2000 **,** yaye uza kuqala ukusebenza ngomhla obekwa nguMongameli ngokuwazisa kwi*Gazethi*.

(2) Kunganikwa imihla eyahlukahlukeneyo ngokobhekiselele kumagatya ahlukahlukeneyo alo Mthetho.

IShedyuli

ULUHLU OLUBONISA IZENZO EZINGENABULUNGISA KUMACANDELO ATHILE
(Icandelo 29)

1 Umsebenzi nengqesho

(a) Ukwakha imiqobo kazenzele ukulinganisa ukufikelela kumathuba engqesho ngokusebenzisa iinkqubo ezithile zokugaya nokukhetha.

(b) Ukusebenzisa umthombo woluntu, uphuhliso, ukhuthazo nezenzo zokuqesha okucalucalula ngokungenabulungisa abantu abavela kumaqela achazwe apha phantsi kwezizathu ezingavunyelwanga.

(c) Ukungaphumeleli ukuhlonipha umthetho-siseko wokuhlawula ngokulinganayo ngomsebenzi ofanayo.

(d) Ukuqhubeka ukuhlawula imivuzo engalinganiyo eyayimiswe ngendlela yocalucalulo olungenabulungisa lwangaphambili.

2 Imfundo

(a) Ukushiywa ngaphandle ngokungenabulungisa kwabafundi kumaziko emfundo, kuquka nabafundi abanezidingo ezizodwa.

(b) Ukubamba ngokungenabulungisa iimali zokufunda, iibhasari okanye naluphi uhlobo lokuncedisa kubafundi bamaqela athile nachazwa phantsi kwezizathu ezingavunyelwanga.

(c) Ukoyisakala ukwamkela ngokufanelekileyo nangokunokwenzeka ukungafani kwabantu emfundweni.

3 Iinkonzo zempilo nezibonelelo

(a) Ukufaka abantu kumayeza asalingwayo ngaphandle kwemvume yabo.

(b) Ukwalela okanye ukungavumeli nawuphi umntu ngokungenabulungisa ukufikelela kumaziko empilo okanye ukungaphumeleli ukwenza ukuba amaziko empilo afikeleleke nakuwuphi umntu.

(c) Ukungavumi ukunikezela unyango olungxamisekileyo kubantu beqela elithile elichazwa phantsi kwezizathu ezingavunyelwanga.

(d) Ukungavumi ukunikezela iinkonzo zonyango ezifanelekileyo kwabalupheleyo.

4 Izindlu, indawo yokuhlala, umhlaba nepropati

(a) Ukukhutshwa kwabantu ezindlwini ngogonyamelo kusetyenziswa izizathu ezingavunyelwanga.

(b) 'Ukusika umgca obomvu' ngokobuhlanga nobume bentlalo.

(c) Ucalucalulo olungenabulungisa ekunikeni imali yokuthenga indlu, imali-mboleko okanye inkxaso yezimali ngokobuhlanga, isini nezinye izizathu ezingavunyelwanga.

(d) Ukungaphumeleli ukunika ingqalelo kwiimfuno ezizodwa zabantu abalupheleyo.

5 Iinkonzo ze-inshorensi

(a) Ukwalela ngokungenabulungisa ngesizathu esingavunyelwanga esinye nangaphezulu ukunikezela okanye ukwenza ifumaneke nakuwuphi umntu ipolisi ye-inshorensi .

(b) Ucalucalulo olungenabulungisa ekunikezelweni kwezibonelelo, uncedo neenkonzo ezinxulumene ne-inshorensi.

(c) Ukungavumeli ngokungenabulungisa umntu okanye abantu kuqukwa nokwala ngokungenabulungisa ukunika iinkonzo kubantu ngenxa yobume babo be-HIV/AIDS.

6 Umhlalaphantsi

(a) Ukushiya phandle ngokungenabulungisa nawuphi umntu kubulungu bengxowa-mali yomhlalaphantsi okanye ekufumaneni naziphi izibonelelo ezivela kule ngxowa-mali usebenzisa isizathu esingavunyelwanga esinye nangaphezulu.

(b) Ucalucalulo olungenabulungisa kwumalungu okanye kubaxhamli bengxowa-mali yomhlalaphantsi.

7 Ubuhlakani

(a) Ukumisa ngendlela yocalucalulo olungenabulungisa ukuba ngoobani na abanganikwa izimemo zokuba ngamahlakani kubuhlakani okubhekiswa kubo.

(b) Ukubeka ngokungenabulungisa imigqaliselo okanye iimeko zocalucalulo abekwa phantsi kwazo umntu omenyiweyo okanye ovunyiweyo ukuba angaba lihlakani.

8 Iingcali ngokwemfundo namaqumrhu

(a) Ukubeka iimeko ezisika umda okanye ezingavumeli ngokungenabulungisa ukungena ekubeni yingcali ngokufunda kwabantu ababekade bevinjwe amathuba.

(b) Ukubeka umda okanye ungavumeli ngokungenabulungisa amalungu ukuba afikelele kwizibonelelo okanye kuncedo ngokusekelwe kwisizathu esingavunyelwanga.

9 Ulungiselelo lwempahla, iinkonzo noncedo

(a) Ukwala ngokungenabulungisa okanye ukungaphumeleli ukunikezela ngempahla neenkonzo okanye ngoncedo nakuwuphi umntu okanye iqela labantu ngezizathu ezingavunyelwanga esinye nangaphezulu.

(b) Ukubeka imigqaliselo, iimeko okanye izenzo ezikhuthaza iziphumo zocalucalulo olungenabulungisa lwangaphambili okanye ukukhutshwa ngaphandle ngokunxulumene nokufikelela kubutyebi bezimali.

(c) Ukusika umda ngokungenabulungisa kumathuba okunikwa iikontraka zokunikezela impahla neenkonzo.

10 Amaqumrhu, imidlalo nemibutho

(a) Ukwala ngokungenabulungisa ukuqwalasela isicelo somntu sobulungu bombutho okanye bequmrhu nangaziphi izizathu esingavunyelwanga.

(b) Ukwala ngokungenabulungisa ukuba ilungu lifikelele okanye ukusika umda ekubeni ilungu lifikelele nakusiphi isibonelelo esinikezelwa ngumbutho okanye liqumrhu.

(c) Ukungaphumeleli ukukhuthaza ukungafani xa kukhethwa abamele iqela.