

Ihlelo leGadango leNarha lokulwisana nokuNinanwa
ngokobuhlanga, ukuBandlululana ngokobuhlanga,
ukuZondwa kwamaPhandle nokhunye okuPhathelene
nakho okungBekezelelekiko



REPUBLIC OF SOUTH AFRICA



IHLELO LOKUMUMETHWEKO

Ikhasi

AMEZWI WOKUTHOKOZA

ISENDLALELO

IINHLATHULULO

AMA-AKHRONIMI

ISAHLUKO SOKU-1: ISINGENISO KANYE NOMNQOPHO WE-NAP

ISAHLUKO SESI-2: UBUNJALO BOMLANDO

ISAHLUKO SESI-3: INTANDO YENENGI – KUKUPHELA KWEBANDLULULO?

ISAHLUKO SESI-4: YINI ESIHLUKANISA PHAKATHI? UKUQALANA NAMAGAZUKO

ISAHLUKO SESI-5: ISEWULA AFRIKA NAMHLANJESI

ISAHLUKO SESI-6: UKUQALANA NOBUHLANGA KANYE NEBANDLULULO BEGODU NOKUKHUTHAZA UKULINGANA – LOKHO ESELE SIKWENZILEKO UKUFIKELA LA

ISAHLUKO SE-7: IHLELO LEGADANGO LENARHA

ISAHLUKO SOBU-8: AMAGADANGO

ISAPHLUKO SE-9: INDELA YOKUBUSA

ISIPHETHO

Amezwi wokuthokoza ngoMongameli weRiphabhliki yeSewula Afrika

Ukuyama kweSewula Afrika ukusuka esikhathini sebandlululo okunokuthula nokwakhulunyiswana ngakho esikhathini esiyikotara yesentjhuri edlulileko kwaba sikhuthazo sephasi loke. Kwahlanganisa amaSewula Afrika ababantu abanzima nabamhlophe ndawonye ngemva kwesikhathi esimasentjhuri sepi yokuhloma inarha etja ebumbeneko, edzimelele phezu kweenkambisolawulo zokulingana nenesithunzi.

Ekulumenakhe yokubekwa ngokomthetho esikhundleni ngenyanga kaMrhayili 1994, uMengameli uMandela wabiza isithombe somunye nomunye wethu, njengemithi yomhlobo wejakaranda yePitori kanye nemihlobo yemithi ye-*mimosa* ye-*bushveld*, ekakarele khulu ehlabathini yenarha ehlele le begodu ukhuluma nangeSewula Afrika yangemva kwe-*apartheid* enokuthula ngaphakathi kanye nephasini.

Njangombana inarhethu ihlanganisa iminyaka ema-25 yetjhaphuluko kanye nentando yenengi, nanyana kunjalo, sifaneleke bonyana sivume bonyana inembombono le iqalelwa phasi kuziphindaphinda kokuqubuka kobuhlanga kanye nokubandlululana ngokobuhlanga.

Asisisodwa kilokhu, ngombana ukuninwa ngokobuhlanga kanye nokuzondwa kwamaphandle, kanengi okuzifihle ngaphakathi kobuzwe, kuyakhula. Nanyana kunjalo, izinga iintjhihlwezi ezizibonakalisa ngalo emiphakathinethu, sithwele isibopho sokuphungula ukuziphatha okona incwadi kanye nomoya weSindlalelo kuMthethosisekelo wethu othi:

“Thina, abantu beSewula Afrika,

Siyakwazi ukungakaphatheki kwethu ngokomThetho kwesikhathi esadlulako;

Sihlonipha labo abahlukumezekako ngerhuluphelo yokobana kube khona ubulungiswa kanye netjhaphuluko enarhenethu;

Sihlonipha labo abasenzilelo ekwakhiweni kanye nekuthuthukisweni kwenarhethu; begodu

Bakholelwa bonyana iSewula Afrika ingeyabo boke abahlala kiyo, sibumbene ngokuhlukahlukana kwethu.”

Ukuninwa ngokobuhlanga kanye nokubandlululwa ngokobuhlanga kuragela phambili nokuzwiwa emiphakathinethu ngokukhambisana neminye imihlobo yokuzindlekela, ngokobulili, ukuzondwa kwamaphandle, ukuzondwa kwabazibandakanya nobulili obuthileko, ngobulelesi behloyo kanye neenkulumo ezinehloyo.

Sifikile isikhathi sokuthi soke sikhuphe imirabhu yokuzindlekela kanye nokubandlulula ukwenzela bonyana sifeze isithembiso sokwakha inarha ebumbeneko, enganabandlululo lobuhlanga, ibandlululo lobulili kanye nenepumele lapho woke umuntu ophila kiyo angabi nelungelo lokulingana kwaphela, kodwana afumane ukulingana emaphilwenabo ngamalanga.

Ukuzimisela kweSewula Afrika ekuqedeni ibandlululo kanye nokungabekezelelani ngeendlela eziimbalelwa kukhuthazwa siFungo kanye neHlelo lamaGadango elamukelwa mButhano wePhasi weeNarha eziBumbeneko wokulwisana noBuhlanga womnyaka wee-2001, lapho wayelelisa khona

iiNarha bonyana “zihlome begodu ziphumelelise ngaphandle kokuriyada imigomo yenarha kanye nehlelo lemagadango wokuqeda ubuhlanga, ukubandlululana ngobuhlanga, ukuzondwa kwamaphandle kanye nokungabekezelelani okuhlobene nakho, ekufaka hlangana okuzinzinze phezu kokuzibonakalisa kobulili.”

Ekuphenduleni lokhu, iKhabhinedi yamukela ***iHlelweli leGadango leNarha lokuqeda ubuHlanga, ukuBandlululana ngokobuHlanga, ukuZondwa kwamaphandle kanye nokungaBekezelelani okuhlobene nakho.***

Ihlelweli linzinze phezu kwekolelo yehlanganyela yamaSewula Afrika bonyana, imiraro yokubandlululwa okunganafeya kanye nokungalingani kwenziwe mumuntu; sinawo amandla wokuthi siqede nya imirara le enarhenethu.

Ihlelo linziwe ngokusebenzisa iindlela zekambiso ezingeneleleko zokukhulumisana ezibandakanya urhulumende, amaZiko angaphasi kweSahluko seThoba kanye nomphakathi, begodu likhuthazwe ziinkambisolawulo zombelele zephasi leko, zokusizana kanye nokungahlukaniseki kwamalungelo wobuntu, ukubandakanya kanye nokufaka woke umuntu, ukubonakala kwetuthuko, ubuziphendulela, ukulingana kanye nokungabandlululani.

Ihlelo lizibophelela kiyo yoke imikhakha yemiphakathi ukwenzela ukutkuthaza kanye nokuvikela amalungelo wobuntu, begodu nokwenza bona kwaziwe ngokulwisana nobuhlanga, nemiraro yokungalingani nokulwisana nebandlululo. Lidinga ibambiswano phakathi kweminyango karhulumende kanye namaZiko angaphasi kweSahluko seThoba somMthethosisekelo ekuphumeleliseni ifundo elwisana nobuhlanga kanye nebandlululo.

Amagadango wokuya phambili afaka hlangana ukubuthelwa kwedatha ephathelene nobuhlanga kanye nebandlululo ukwenzela bonyana sikghone ukuqeda iinkingezi begodu sithuthukise ukungenelelokho njengokutjhutjhiswa kwabaphulimthetho kanye nokusekela abongazimbi ngokwezehlalakhle nomkhumbulo.

Ihlelo laGadango leNarha lenza neenqalelelo zokukhonjwa komthetho odinga ukukhitjelelwa nofana ukwamukelwa ngombono wokuthuthukisa ukuvikeleka kwabongazimbi, ukwakhiwa komphakathi olingana khulu, begodu nokuqiniswa kwelawulo lomthetho kanye nentando yenengi. IHlelweli likhuthaza ukuzimisela kwamaSewula Afrika woke eenkambiswenikolelo kanye nekuziphatheni ekuzakuhlukana nobuhlungu kanye nomonakalo wesikhathi sethu esadlulako begodu ekuzakulungiselela ukwenza kwethu okuhle endleleni yokuvuselela kanye neokukhhula.

Lo mzamo ekufanele ube nemirabhawo kiyo yoke ihliziyo kanye nakilo lokhe ikhaya, ukusuka lapho iinkambisokolelo zethu kufanele zivezwe eenkumbeni zokufundela, emisebenzini, emijejeni yamavikili, eendaweni zokudla kanye nematatawini.

Asenzeni iminyakethu ema-25 elandelako yetjhaphuluko ibe sikhathi lapho sizokutjhaphuluka khona kwamambala ehlukanisekeni, ebandlululweni kanye nekungabekezelelaniko kwangesikhathi esadlulako.

ISENDLALELO

UmButhano wePhasi wokulwisana nobuHlanga, ukuBandlululana ngokobuHlanga, ukuZondwa kwamaphandle kanye nokungaBekezelelani, njengokuthulwe ngaphakathi kwe-Durban Declaration and Programme of Action (2001) indlala bonyana:

“Siyakwazi bonyana ukuninwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle, kanye nokuhlelene nokungabekezelelani okwenzakala ngeenzathu zobuhlanga, umbala, ngokuya lapho obelethelwe khona nofana ubuzwe nofana ubuhlobo bakhe kanye nokuthi abongazimbi batlhagiswa ngeendlela ezinengi nofana bahlukunyezwe ngemihlobo yokubandlululwa ngokuya ngezinye iinzathu eziphathelene nobulili, ilimi, ikolo, ipolitiki nofana imibono eminye, indabuko yesitjhaba, ipahla, ukubelethwa nofana obunye ubujamo.”

“I-Declaration and Programme of Action eyamukelwe eMbuthanweni wePhasi weeNarha eziBumbeneko wokulwisana nobuHlanga yakhombela “IiNarha bona zihlome begodu ziphumelelise ngaphandle kokuriyada imigomolawulo yenarha kanye namahlelo wegadango lokuqeda ubuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokungabekezelelaniko okuhlobene nalokhu, ekufaka hlangana ukuzibonakalisa kwakho kwangokobulili.”

Nawutjheja umlando weSewula Afrika wekholoniyalizimu kanye nesikhathi sebandlululo, isibawo soMbuthano we-Durban sifaneleke khulu. Ngomnyaka we-1994, inarha yaphuma ngaphakathi kwesikhathi esimasentjhuri amathathu nesiquku sokugandelelwa ngokobuhlanga, ebekurhagaliswa lidlanzana labantu abamhlophe, kubuswa ngebeentjhaba kanye norhulumende webandlululo. Ngesikhathi esidesi, inengi lama-Afrika kanye nedlanzana labo abangasimhlophe begade baphathwa njengabathunya abatheza iinkuni kanye nabathuthi bamanzi. Begade badinywe amathuba ngokwepolitiki, bamukwa umnotho begodu bagandelelwa ngokwamasiko.

Amabala wekholoniyalizimu kanye newesikhathi sebandlululo asabonakala kwamambala emiphakathini yamaSewula Afrika namhlanjesi. Umtlhago kanye netuthuko ebuthaka inzinze khulu ngokobuhlanga – okukhinyabeza inengi labantu abanzima – kuthi ubunini bobugwili kanye nepilo engcono isagcineke khulu ezandleni zabantu abamhlophe.

Ikholoniyalizimu kanye nesikhathi sebandlululo kwadala umonakalo ukuya phambili ezenzweni eziyayelekileko ebekele zikhona lezo eziqalela phasi isithunzi kanye nethabo labafazi emiphakathini. Izenzo zekambiso yokuninwa kwabafazi ebezibumbe imiphakathi yendabuko yama-Afrika begade zisetjenziswa ngokwepolitiki ukwenzela ukufeze iinrhuluphelo zokulamana kwaborhulumende bedlanzana. Kuliqiniso elingaphikisekiko bonyana, lokha nabaqathaniswa namadoda, abafazi bekujayeleke bonyana baphatha iinkhundla eziphasi emiphakathini.

Iminyaka eminengi yomgomolawulo yobuhlanga nebandlululako wesikhathi sebandlululo watjala imbawu yokuzondwa kwamaphandle, khulukhulu naniza phezu kwama-Afrika, yasusa ubudlelwano bamasentjhuri wobuntwana bomuntu phakathi kwama-Afrika eSewula Afrika kanye nakilabo ababuya kezinye iingcinye zenarhakazi. Le kuyindlela ama-Afrika azithole abongazimbi abakhulu bokuzondana ngokobutjhaba ngaphakathi kweSewula Afrika yanamhlanjesi. IHlelo leGadango leNarha liyipendulo esiphakamisweni esenziwa mButhano we-Durban begodu yenzelwe khulu ukusebenza njengomtlozo omhlahlandlela ngemva kwemizamo yokuqeda, ukuninwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokungabekezelelani okuhlobene nalokhu.

I-NAP akusi ngeyakarhulumende kwaphela – ingeyenarha yoke. Njengombana i-UN Guidelines¹ indlala bonyana, ihlelo legadango lenarha wokulwisana nokubandlululana ngokobuhlanga kuyindlela enepumelelo yokufeza iminqopho yenarha. Ngebangelo, kufanele uthathwe njengehloso ekulu yenarha, ubandakanye zoke izakhi zikarhulumende kanye nomphakathi. UmBuso udlala indima eqakatheke khulu ekusunguleni, ekuhlomeni kanye nekuphumeleliseni ihlelo legadango lenarha lokulwisana nokubandlululana ngokobuhlanga. Ngasikhathi sinye, wenza nomehluko wamambala, ihlelo lifanelwe “liphathwe” sitjhaba soke. Ekulingeni ukuphumelelisa iminqophabo, umBuso kufanele wakhe ubudlelwano obuqinileko hlangana nabo boke abadlali bendima abafaneleko.

Isilinganiso somnqopho we-NAP ungewenarha yoke begodu usebenza nakiwo woke amagatja kanye neengaba zikarhulumende, ekufaka hlangana isigungu, ipalamende kanye nephiko lezobulungiswa kizo zoke iingaba.

I-NAP yakhiwe ngokusebenzisa iindlela zekambiso ezibanzi zokukhulumisana ekufaka hlangana urhulumende, amaZiko angaphasi kweSahluko seThoba somThethosisekelo kanye nomphakathi begodu isekelwe ngeenkambisolawulo zombebele ezibandakanya woke umuntu, ukubambisana kanye nokungahlukaniseki kwamalungelo wobuntu, ukubandakanyeka kanye nokungakhethululi, ukubonakala kwetuthuko, ubuziphendulelo, ukulingana kanye nokungabandlululani.

- *Ukubandakanya woke umuntu: I-NAP kufanele yazi bonyana amazinga wamalungelelo wobuntu asisekelo afumana ivikeleko elibandakanya woke umuntu emthethweni ophathelene nesintu weentjhabatjhaba kiyo yoke imikhawulo kanye nemiphakathini. Kufanele ikhambisane ngaso soke isikhathi nomsebenzi kaRhulumende wokuhlonipha, ukuvikela ukukhuthaza kanye nokufeza amalungelo wobuntu kanye netjhaphuluko esisekelo, nangaphandle kwehlelo lepolotiki, lomnotho nofana lesiko.*
- *Ukubambisana kanye nokungahlukaniseki: I-NAP kufanele inake ngokulingana yoke imikhakha yamalungelo, efaka hlangana amalungelo wemiphakathi kanye namalungelo wezepolotiki, begodu newezomnotho, wezehlalakuhle kanye namasiko, khulukhulu itjheje bonyana ukudinywa ilungelo linye kukuphazamisa ithabo kwabanye.*
- *Ukubandakanya kanye nokungavaleli ngaphandle: I-NAP kufanele iqinisekise, ipumelelo kanye nokubandakanya okuzeleko. Kufanele iphe amandla umuntu ngamunye kanye neenqhema ezizithole ziqalene ngemehlweni nokubandlululwa ngokobuhlanga ukwenzela bonyana bakghone ukuthola iindingo zamalungelwabo wobuntu begodu iqinisekise bonyana ayahlangabezwa.*
- *Ukubonakala kwetuthuko: I-NAP kufanele yenze imigomo eyinqophileko, ekhambisana njalo nomthetho begodu enetuthuko eyaneleko ukwenzela ukuvikela amalungelo womuntu ngamunye kanye neweenqhema eziqalene nokubandlululwa ngokobuhlanga kanye neminye imihlobo yokubandlululwa.*
- *Ubuziphendulelo: Ukuze kubenepumelelo, i-NAP idinga ukuthuthukiswa kwehlelo lobuziphendulela elinzinze phezu kweminqopho eqinisekisekako, engophileko. Kufanele yakhe iindlela zokwenza amaziko aphethe ukuphunyelelisa kwayo bonyana abe nokuziphendulela eenqhemeni kanye nebantwini labo ehlose ukukhuthaza begodu ivikele namalungelwabo.*

¹ Developing National Action Plans against Racial Discrimination, A Practical Guide, UNHR, 2014, p. 10

- *Ukulingana kanye nokungabandlululani: Ikambisolawulo yokungabandlululani zisisekelo somthetho wamalungelo wobuntu kanye nekambisolawulo efakwe kizo zoke iimvumelwano zamalungelo wobuntu. I-NAP kufanele inqophiswe yikambisolawulo yokuthatjelwa kwamalungelo wobuntu ngendlela elinganako njengengcenywe eqakathekileko yokukhandelwa kokubandlululwa ngokobuhlanga. Kufanele isebenzele ukuqinisekisa bonyana amalungelo wobuntu asetjenziwa ngeendlela ezilinganako zokuthola amathuba kanye nemiphumela, eqinisweni kanye nemthethweni, kwawo woke umuntu. Ifanele iphe ukuthathelwa phezulu kwalabo ababongazimbi khulu bokubandlululwa ngokobuhlanga. Ukungabandlululani kanye nokulingana kuqakathekile ekusebenziseni kanye nekuthabeleni amalungelo wobuntu. Ilungelo lokulingana kanye nokungabandlululwa lindinga bonyana uRhulumende aqinisekise ukungabandlululani ekusetjenziweni kwamalungelo wobuntu.*
- *Ukungalingani.*

I-NAP inzinze phezulu kwekolelo ehlangeneko yamaSewula Afrika bonyana, imiraro yokubandlululana okungasifeya iihlango kanye nokungalingani kwenziwe mumuntu; kungabuselwa emuva begodu kuqedwe nya enarhenethu.

IINHLATHULULO

Indinyanahlathululo: UmButhano wePhasi wokulwisana nobuHlanga, ukuBandlululwa ngokobuHlanga, ukuzondwa kwamaphandle kanye nokuHlobena nakho ukungaBekezelelani, ebegade ubanjwe e-Durban ukusukela ngomhlaka 31 kuRhoboyi ukufikela ngomhlaka 8 kuKhukhulamungu 2001, wamukela ukuqakatheka kwesiVumelwano seenTjhabatjhaba ngokuQedwa kwayo Yoke imiHlobo yokuBandlululana ngokobuHlanga ("i-ICERD") njengesisetjenziswa esikhulu seentjhabatjhaba sokuqeda ubuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokungabekezelelani.

Ngebangelo i-NAP isebenzisa iinhlathululo njengokumumethwe ngaphakathi kwe-ICERD begodu, lapho kudingeka khona, nezinye iimvumelwano zeentjhabatjhaba. Lapho imithetho yenarha nofana iKhotso yoMthethosisekelo ingezelele iinhlathululo ezithileko, lezi zitshwaywe ngendlela efaneleko.

Ukubandlulula: —Kuhlathulula nanyana ngisiphi isenzo nofana ukutjhiywa ngaphandle, okufaka hlangu umgomolawulo, umthetho, isenzo, ubujamo nofana isimo -

(a) esibeka bunqopha nofana ngokungakanqophi imithwalo, iimbopho nofana ubudisi phezu; nofana

(b) siriyadisa iinzuzo, amathuba nofana ubujamo obungcono, ukusuka emuntwini munye nofana ngaphezulu ngeenzathu ezingakavumeleki.²

Ukubandlulula ngokobulili: Kuhlathulula nanyana ngikuphi ukuhlukaniswaa, ukuvalelwa ngaphandle nofana ukubekelwa umkhawulo ngokobulili okunomphumela nofana umnqopho wokukhandela nofana okuphazamisa ukutjhejwa, ukuthatjelwa nofana ukusetjenziswa bafazi, nangaphandle kobujamo babo bomtjhado, ngeenzathu zokulingana kwamadoda nabafazi, amalungelo wobuntu kanye netjhaphuluko esisekelo naziza kezepolotiki, zomnotho, zehlala kule, zamasiko, imiphakathi kanye nezinye iindawo.³

Ubulelesi behlobo: Ubulelesi behlobo kulicala elitjhejwe ngaphasi kwananyana ngimuphi umthetho, umlayo wakhona ekungiwo okhuthuthaze umuntu ngokuzindlekelwa komuntu nofana ukungabekezelelwa kwakangazimbi wobulelesi ekukhulunywa ngabo ngonobangela wokukodwa nofana ngaphezulu kokulandelako okwakha nofana okuthathwa njengokwakha isithombe sikangazimbi nofana ilunga lomndenakhe nofana umngani wakangazimbi nofana ngesekelo, lesiqhema sabantu abanamatshwayo akhulunyiswako:

(a) ubudala;

(b) ubuswephe;

² Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)

³ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

- (c) ukubelethwa;
- (d) umbala;
- (e) isiko;
- (f) ukukhubazeka;
- (g) ubuhlobo nofana imvelaphi;
- (h) ubulili nofana ubunjalo bobulili;
- (i) ubujamo beze-HIV;
- (j) ilimi;
- (k) ubujamo bobutjhaba, amaphandle nofana abaphalali;
- (l) umsebenzi nofana irhwebo;
- (m) ihlangano yepolitiki nofana ikolelo;
- (n) ubuhlanga;
- (o) ikolo;
- (p) ubulili, ekufaka hlangana ubuntendembili ; nofana
- (q) ukuzubandakanya nobulili obuthileko.⁴

Ikulumo eneHloyo: Ukurhatjha ngehloso, ukusabalalisa, ukujamela nofana ukuthumela umlayezo emuntwini munye nofana ngaphezulu engendlela engahlathululeka njengekhombisa kuhle umqopho—

- (i) wokungaba nobungozi nofana ukhuthaze ubungozi; nofana
- (ii) okhuthaza nofana ophehla ihloyo,

ngokwesizathu sinye nofana ngaphezu zalezi ezilandelako:

- (aa) ubudala;
- (bb) ubuswephe;
- (cc) ukubelethwa;
- (dd) umbala;
- (ee) isiko;
- (ff) ukukhubazeka;
- (gg) ubuhlobo nofana imvelaphi;

⁴ The Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018

- (hh) ubulili nofana ubunjalo bobulili;
- (ii) ubujamo beze-HIV;
- (jj) ilimi;
- (kk) ubujamo bobutjhaba, amaphandle nofana abaphalali;
- (ll) ubuhlanga;
- (mm) ikolo;
- (nn) ubulili, ekufaka hlangana ubuntendembili; nofana
- (oo) ukuzubandakanya nobulili obuthileko.⁵

Ukubandlulula okungakanqophi: Imithetho, imigomolawulo nofana ukuphathwa okungahle kubonakala kungathathi ihlangathi begodu okunganakubandlululiko kungagcina sele kurholela ekubandlaluleni.⁶

Iinzathu ezibaliweko: Kuhlathulula iinzathu lezo ezindlalwe esigabeni 9 somThethosisekelo.

—linzathu ezingakavumeleki ngilezi --

(a) ubuhlanga, ubulili, ukuzithwala, ubujamo bomtjhado, ubuhlobo nofana ivelaphi yehlalakhle, umbala, ukuzibandakanya nobulili obuthileko, ubudala, ukukhubazeka, unembeza, ikolelo, isiko, ilimi kanye nokubelethwa; nofana

(b) nanyana ngiziphi ezinye iinzathu lapho ukubandlulula kungokwezinye zeenzathwezo --

(i) kubangela nofana kuthuwelelisa ukungahleleki kuhle kwehlelo;

(ii) kuqalela phasi isithunzi sobuntu; nofana

(iii) kukhinyabeza kumbi ukuthatjelwa ngokulingana kwamalungelo womuntu kanye netjhaphuluko ngendlela encamileko eqatheniseka nokubandlululwa ngeenzathu ezisendimeni (a).⁷

Ukubandlulula ngokobuhlanga: Nanyana ngikuphi ukuhluka, ukuvalela ngaphandle, ukukhandelwa nofana ukukhetha ngokobuhlanga, umbala, ukubelethwa, nofana ubutjhaba nofana ubuhlobo bemvelaphi okunomqopho nofana umphumela wokuphazamisa nofana ukukhandela ukutholwa kwetjhejo, ukuthatjelwa nofana ukusetjenziswa, ngokulinganako, amalungelo wobuntu

⁵ The Prevention and Combating of Hate Crimes and Hate Speech Bill, 2018

⁶ City Council of Pretoria v Walker 1998 (2) SA 363

⁷ Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)

kanye netjhaphuluko esisekelo naziza kezepolotiki, zomnotho, zehlala kuhle, isiko, nofana nanyana ngiyiphi enye indawo yepilo yomphakathi.⁸

Ukunina ngokobuhlanga: Kuhlathulula ukuzindekela, ukubandlulula, nofana ukuphikisa okunqotjhiswe emuntwini wobuhlanga obuhlukileko ngekolelo yokobana ubuhlanga bomunye bukhulu kunobomunye.⁹

Ukuzondwa kwamaphandle: Kuhlathulula umukghwa wenturhu eqaliswe kilabo abangasi bahlali besitjhabeni esithileko.¹⁰

⁸ CERD, article 1

⁹ Oxford Living Dictionary

¹⁰ UNESCO <http://www.unesco.org/new/en/social-and-human-sciences/themes/internationalmigration/glossary/xenophobia/>

AMA-AKHRONIMI

CA	IsiGungu soMthethosisekelo
CEDAW	IsiVumelwano sokuQedwa kwayo yoke imiHlobo yokuBandlululwa kwabaFazi
CODESA	IsiVumelwano seSewula Afrika yeNtando yeNengi
CRPD	IsiVumelwano samaLungelo waBantu abaPhila nokuKhubazeka
DAC	UmNyango wezobuKghwari namaSiko
DDPA	<i>i-Durban Declaration and Programme of Action</i>
DOJCD	UmNyango wezobuLungiswa nokuThuthukiswa komThethosisekelo
DPME	UmNyango wezokuHlela, ukuBeka iLihlo kanye nokuHluza
EAP	UkuBandakanye kwaBantu ngokmNotho
GBV	UkuHlukunyezwa ngokoBulili
ICERD	IsiVumelwano seenTjhabatjhaba ngokuQedwa kwayo Yoke imiHlobo yokuBandlululana ngokobuHlanga
LGBTI	IsiTabana esisikazi, isiTabana esiduna, ubuNtendembili, ubulili obuphambene nobelethwe nabo, ubulili obungathathi ihlangothi lobulili
NAP	IHlelo leGadango leNarha
NDP	IHlelo lokuThuthukiswa kweNarha
PEPUDA	<i>I-Promotion of Equality and Prevention of Unfair Discrimination Act, 2000</i> (umThetho weNomboro-4 wee-2000)
SAHRC	Ikhomitjhini yamaLungelo woBuntu yeSewula Afrika
SARB	IHolombono yesiSetjenziswa sokuLinganisa ukuBuyisana ye-SA
SEJA	UkuLingana ngokomNotho neHlalakuhle kwabantuBoke
TRC	Ikhomitjhini yamaQiniso nokuBuyisana
WCAR	UmButhano wePhasi wokulwisana nokuNinanwa ngokobuhlanga, ukuBandlululana ngokoBuhlanga, ukuZondwa kwamaPhandle nokuKhambelana nakho okungaBekezelelekiko
WPRPD	UmBiko oGunyaziweko wamaLungelo waBantu abaphila nokuKhubazeka

“Akunamuntu obelethwe azonda omunye umuntu ngebanga lombala wesikhumba sakhe, nofana ngemvelaphi yakhe, nofana ngekolo yakhe. Abantu bayakufunda ukuzonda, begodu nangabe bakghona ukufunda ukuzonda, kutjho khona bona bangafundiswa ukuthanda, njengombana ithando liza ngokwemvelo ehliziyweni yomuntu kunonalokho okuphambene nalo.”

Nelson Mandela

ISAPHLUKO SOKU-1: ISINGENISO KANYE NOMNQOPHO WE-NAP

1. ISewula Afrika yaminywa yihlangano yeeNarha eziBumbeneko bonyana ibambe UmButhano wePhasi wokulwisana nokuNinanwa ngokobuHlanga, ukuBandlululana ngokobuHlanga, ukuZondwa kwamaPhandle nokuKhambelana nakho okungaBekezelelekiko (“i-WCAR”), eyabanjwa ngomnyaka we-2001. Isimemeso senziwa ngokutjheja ubudisi obuthwelwe babantu beSewula Afrika ngokulwisana namahlelo wombuso webandlululo kanye nokuyamela kwenarha ngaphakathi kwentando yenengi, okunzize phezu kweenkambisokolelo zomthethosisekelo. I-WCAR yakhanjelwa bajameli beenarha ezima-160. Umbuthano wamukela itshwayamlendo i-*Durban Declaration* kanye neHlelo laGadango (“i-DDPA”) neyakhombela bona “iinarha zisungule begodu ziphumelelise ngaphandle kokuriyada imigomolawulo yenarha kanye nehlelo lemagadango wokuqeda ubuhlanga, ukubandlululana ngobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okuhlobene nakho okungabekezelelekiko, ekufaka hlangana okunzize ekuzibonakaliseni kwakho kwangokobulili.”¹¹

2. –I-*Durban Declaration* iyelela bonyana -

- ukubandlululana ngokobuhlanga kukhona kiyo yoke imiphakathi;
- akunanarha enganabo ubuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko, begodu
- neenarha zoke ziqalene neentjijilo zokuqeda ukubandlululana ngokobuhlanga.

I-*Durban Declaration* -yenza iphuzu lokobana ukulungisa imiraro le ngepumelelo kudinga uRhulumente kanye nabo boke abantu bonyana basebenze ngokubambisana ukwenzela ukutjhugulula iindlela ekucatjangwa ngazo, ukuqinisa ukwazisa mayelana nokudlanga kobuhlanga kanye nokubandlululana ngokobuhlanga, begodu nokuhloma kanye nokuqinisa amaziko akhethekileko wokuqeda koke lokhu.

3. IHlelo laGadango leNarha (“i-NAP”) lipha iinzathuzokuthuthukiswa komgomolawulo womphakathi opheleleko wokulwisana nokubandlululana ngokobuhlanga kanye nokusiza iinarha ekuphumeleliseni iimbopho zazo zeentjhabatjhaba zamalungelo wobuntu eziphathelele nokuqedwa kobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle nokhunye okuphathelele nakho okungabekezelelekiko. Liqalelela nangemiphumela ethileko begodu liyindlela yekambiso ehlanganisa ababambisani

¹¹ Indima yama-66 ye-DDPA

ndawonye ukwenzela ukukhuluma ngesitjhijilo sokuqeda ubuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okuphathelene nakho okungabekezelelekiko.¹²

4. I-NAP ayikanqophi ukujamiselela imithetho kanye nemigomolawulo ekhona, kodwana yenzelwe **ukuba sisekelo** emithethweni ekhona, imigomolawulo kanye namahlelo ahloselwe ukuqalana ukulingana, kanye nokubandlulula. I-NAP izokupha iindlela zokutlolwa phasi kanye nokubeka ilihlo kwezehlakalo eziragako zobuhlanga kanye nokubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okuphathelene nakho okungabekezelelekiko ekufaka hlangana ukuhlonywa kwesiqhema sokuphendula ngokurhabako, sithule umbiko bunqopha kurhulumende kanye nemphakathini ngokunaba kwawo, sisebenze njengesisetjenziswa sokumadanisa ubukhulu bezehlakalo, ubujamo obuvumela iragelo phambili lakhoo kanye nokuqalelelwa ngeensetjenziswa zokulungisa.
5. Ukuyaphambili, i-NAP ihlose ukusiza iSewula Afrika ukuhlangabezana neembopho zesivumelwano seentjhabatjhaba kanye nesesiyingi sesiVumelwano seenTjhabatjhaba ngokuQedwa kwayo Yoke imiHlobo yokuBandlululana ngokobuHlanga (i-ICERD), kanye nokuzibophelela kwawo okusukela eMbuthanweni wePhasi wesiThathu weeNarha eziBumbeneko wokulwisana nobuHlanga, ukuBandlululana ngokobuHlanga, ukuZondwa kwamaPhandle, kanye noKhunye okuphathelene nakho okungabekezelelekiko.

Ukugandelela okukhethekileko eenqhemeni ezithathelwa phezulu

6. Ilungelo lokuphila leenqhema ezitlhoga isizo kanye nezidinywe amathuba emphakathini onganakho ukunina ngokobuhlanga, ukubandlulula ngokobulili kanye nongabandlululi ngokobuhlanga, umbala, ubulili, ukuzibandakanya nobulili obuthileko kanye nobunjalo bobulili begodu nokuveza amaziso, lapho ubelethelwe khona, ubutjhaba kanye nobuhlobo balapho ubuya khona kanengi liyatjhijilwa. Zibumba isiqhema esithathelwa phezulu se-NAP ngokuya ngeminqopho yomthethosisekelo wokulingana kanye nokungabandlululani begodu nesidingo sokuvikelela mayelane nobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okuphathelene nakho okungabekezelelekiko.
7. I-DDPA ikhombe iinqhema ezilandelako ezithathelwa phezulu:¹³ Abantu bendabuko; ama-Afrika kanye nabantu ababelethelwe e-Afrika; abantu be-Asia kanye nabantu ababelethelwe e-Asia; abaPhalali; abaFuduki kanye namaphandle adinga ububalekelo; aboNgazimbi bokukhukhuthiswa kwabantu; abantu abahlala ngaphakathi endawe ngokungakafaneli; imiphakathi yama-Roma/Gypsy/Sinti/ yabaVakatjhi; imiphakathi yama-Jewish; imiphakathi yama-Muslim kanye nayema-Arab; ubutjhaba kanye nobuhlobo, ikolo kanye nedlanzana lamalimi.
8. I-NAP ithathela phezulu iinqhema zabantu, eziqalene nemihlobo eminengi yokubandlululwa, nangaphandle kokuba bongazimbi bokubandlululwa, ezifana:

¹² As required by the DDPA, par 66

¹³ "Developing National Action Plans against Racial Discrimination, a practical guide", UNHR, Office of the High Commissioner (2014) p81

- Abatlhagako beendaweni zemakhaya nemadorobheni;
 - Abasebenzi bemaplasini kanye nabahlali bemaplasini;
 - Abantu abaqwile ngaphakathi komtlhago;
 - Abafazi kanye nabentwana;
 - Abentwana kanye nelutjha;
 - Amaphandle;
 - Abasebenzi bemakhaya;
 - Abantu abaphila ne-HIV/AIDS;
 - Abantu abaphila nokukhubazeka;
 - Abantu abadala;
 - Abantu abadinywe itjhaphuluko;
 - abantu abaziintabana ezisikazi, iintabana eziduna, ubuntendembili, ubulili obuphambene nobelethwe nabo, ubulili obungathathi ihlangothi lobulili, begodu
 - nabantu abakhinyebezwe yipi yeenkhali nofana yihlekelele yemvelo.
9. I-NAP isebenza kibo boke abantu abangaphakathi komkhawulo wombuso wenarha abanamalungelo wokulingana kanye newokungabandlululwa. UMBuso kanye nalabo abanomthelela enarheni kodwana abangasibo benarha leyo ngibo abathwele isibopho salokho esilethwa lilungelo lokulingana kanye nelokungabandlululwa. I-NAP ibambelele ekolelweni yokuthi amalungelo wobuntu angewomuntu woke, akahlukaniseki, ayakhambelana, abambisene begodu ngokulinganako ahlose ukuqinisekisa ukuthatjelwa ngokulinganako kwawo woke amalungelo wobuntu, ekufaka hlangana imiphakathi, isiko, umnotho, ipolotiki kanye namalungelo wehlala kule. I-NAP itjheja nokuthi ilungelo lokulingana kanye nelokungabandlululwa kumalungelo ngokwawo begodu angaphulwa nangaphandle kokuhlanganiswa nokudinywa kwamaanye amalungelo– ngokhunye okutshwaywe ngaphakathi koMthethosisekelwethu.
10. Iinarha zinesibopho sokuthuthaza kanye nokuvikela amalungelo wobuntu begodu nokukhandela ukuphulwa kwamalungelo lawo. Iinarha zikatelelekile bonyana zilise ukuqabhela phakathi kokuthatjelwa kwamalungelo wabongazimbi bokubandlululwa ngokobuhlanga. Iinarha zikatelelekile bonyana zikhandele ukuphulwa kwamalungelo wabongazimbi bokuninwa ngokobuhlanga kanye nokubandlululwa ngokobuhlanga ziiNarha kanye nalabo abononthelela enarheni abangasibo benarha leyo. Iinarha zidinga bonyana zamukele iindlela zokususwa kwananyana ngiziphi iinqabo ezingaba nomthelela omumbi ekuthatjelweni kwelungelo lokungabandlululwa ngokobuhlanga, umbala, lapho ubelethelwe khona, nofana ubutjhaba nofana imvelaphi yobuhlobo. Lokhu kufaka hlangana isibopho sokukhandela ukubandlulula ngaphakathi kwamazinga wangeqadi.
11. Ukuthuthukiswa kanye nokuhlonywa kwe-NAP kubumba iphahla letheleknikhali lemigomolawulo yeNarha, amahlelo, amaqhinga kanye namagadango wokuqeda ukuninwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko begodu nokubumba ukukhambisana neembopho zenarha zokuvikela boke abantu kanye neenqhema

ekunananweni ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko.

Umnqopho omkhulu we-NAP

12. **Umnqopho omkhulu** we-NAP kulungisa bunqopho ikinga yobuhlanga enarhenethu. Ukukungezelela emagadangweni esele akhona, i-NAP ihloselwe nokuqeda ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko begodu nokulungisa okulandelako:

- Ukukhuthazwa kwesithunzi sobuntu ngokukhuthazwa kanye nokuvikelwa kwamalungelo wobuntu;
- Ukwandisa ukuyelelisa mayelana nokulwisana nobuhlanga, ukulingana kanye neenkinga zokubandlululana esitjhabeni, emiphakathi kanye nesitjhabeni ngobukhulu baso, ukufuna isekelo ebantwini abanengi kanye nokuphendula isidingo sokukhandela, ukuqeda kanye nokuqalana nokuzondana ngokobuhlanga;
- Ukukhuthaza ukubuthelelwa kwedatha ephathelene nokuninanwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko begodu nokuvumela ukuhlolwa okungeleleko kweendingo ukwenzela ukuqeda umraro lo ngepumelelo;
- Ukuqinisekisa bonyana iinlilo zabantu kanye nezeenqhema eziqalene nokuzondwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko kulungiswa ngepumelelo;
- Ukwandisa ipumelelo kanye nokuhleleka kwamagadango wokulwisana nokuninwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko ekufaka hlangana zeemali kanye nomthombo weensebenzi;
- Ukuphakamisa ukuzibophelela ekuqedeni ukuninanwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambelana nakho okungabekezelelekiko ngokusebenzisa amahlelo afaneleko ahloselwe ukufinyelela okuhlosiweko;
- Ukuqinisa amahlelo wabantu kanye neweenqhema eziqalene nokuninanwa ngokobuhlanga, ukubandlululana ngokobuhlanga, ukuzondwa kwamaphandle nokhunye okukhambelana nakho okungabekezelelekiko kezefundo, zamaphilo, imisebenzi, izindlu, ukudla, iinsiza zomphakathi kanye nokuthola ubulungiswa ekufaka hlangana lapho kutlhogekha khona ngeendlela zokubuyisela esigeni ezifaneleko;
- Ukukghonakalisa ukukhonjwa kwemithetho edinga ukukhitjelelwa nofana ukuphasiswa ngombono wokuthuthukisa kanye nokuvikela abongazimbi, begodu
- Nokwakha umphakathi olinganako kanye nokuqinisa ilawulo lomthetho kanye nentando yenengo.

ISAPHLUKO SESI-2: UBUNJALO BOMLANDO

13. Isitjhaba seSewula Afrika siqalala ukuhlangana komlando, ubunjalo kanye nesiko, okujamele imvelaphi, ukurhatjheka kanye nokuhlanganiswa kobuntu ngemva kwangaphezu kwamakhulu weenkulungwana zeminyaka, zokwakhiwa ngenturhu eguruzelako, ukuthathelwa ipahla kanye nokugandelelwa ngokwepolotiki. Esikhundleni sokubambisana ukwenzela ukwakhela phezu kwesisekelo esele sikhona sabahlali abahlukahlukileko be-Afrika inengi lengcenyeni yangesewula, amakholonayiza ababuya e-*Europe* basebenza ngamandla ukwakha isitiki lapho bazokulwela izipi khona kuhle hlangana kwabo ngehloso yokuthumba, ukuba nelawulo phezu kwepahla kanye nokulawula ngokwepolotiki yenengi labantu bendabuko ababanikazi bendawo. Ngemva kwenani lezipi, ukuhlulwa kwama-Afrika ngomnyaka we-1906, e-*Bambatha Rebellion*, kwajamela imizamo yokugcina yabantu bandabuko yokulwa ipi ehlelekileko yokulwisana nokulawulwa makholoniyali.
14. Ikholoniyalizimu kurholele ekuhlukunyezweni kwesitjhaba se-Afrika, ama-*Khoi* kanye nama-*San*, ebaba bongazimbi bamajima wokurhayilwa, ekufaka hlangana imiphakathi yama-*Malay* kanye neyama-*Indian* eyasetjenziselwa ukwakha iinsekelo zomnotho wombuso wedlanzana labantu abamhlophe. Ukuba nesisekelo samandla nokuba phambili kwamakholonisi, ekwenza bonyana ukulawulokhu kube yirhonakalo, athulwa eendaweni zeSewula Afrika ukusetjenziswa kwemihlobo ethuthukileko zomqhiqizo womnotho kanye nokurhweba ebekudzimelele phezu kwendabuko kanye nemisebenzi yobugqila ebabuya e-Asia. Kubudisobu besikhathi esadlulako obusaragela phambili nokuhlathulula ihlanganisela yemiphakathi namasiko ehluhahlukileko yesikhathi sanamhlanje eSewula Afrika.
15. Ngaphasi kwekholoniyalizimu kanye nombuso webandlululo, abantu abanzima¹⁴ begade bagandelelwe, bathathelwa nenarhabo kanye neminye imizamo yokufuya begodu bamukwa ngehleloamalungelwabo wobuntu asisekelo ekufaka hlangana ilungelo lekhethe kanye netjhaphuluko yokukhambakhamba kanye neyokuzibandakanya. Ukubandlululwa ngokobuhlanga kwahlala ekuvalelweni ngaphandle kezepolotiki kwabantu abanzima, ekwarholela ekudinyweni amandla wezomnotho begodu inengi labo begade livalelwe ngaphandle naziza ekujanyelweni kurhulumende kanye nemalungelweni amanengi nelungelo elikhethekileko ebegade lithatjelwa babantu abamhlophe abahlala enarheni. Imithetho ephathelene nobuhlanga yaphasiswa ngemnyaka we-1920 kanye newe-1930 ekwarhagalisa ukubandlululwa ngokobuhlanga ukuya phambili. Ukwamukelwa kwesikhathi sebandlululo ngomnyaka we-1948 kwasoseleka ngathi kwabayindlela 'yokuthuthukiswa okuhlukanisiweko' kweentjhaba, kodwana eqinisweni kwasebenza ukuvikela ilungelo elikhethekileko labamhlophe. Umbuso webandlululo waba nomthelela epilweni yomunye nomunye umuntu – lapho ebegade bavunyelwe bona bahlale khona, ukuthi kufanele batjhade nobani, kufanele bazibandakanye nobani, ngiziphi iinsiza zikarhulumende, abangazifinyelela, nangabe zikhona. Simphakathi obunjwe ngamalimi amanengi, kodwana ngaphasi kwesikhathi sombuso webandlululo ukugandelelwa kwamalimi wabantu be-Afrika begade kungahlukaniseki nakancani nokulawulwa ngokobuhlanga.

¹⁴ Africans, Coloureds and Indians

16. Ukubandlululwa ngokobuhlanga kwabanga ukwanda komguruguru kanye nokuvukela ipolitiki eSewula Afrika ukusukela ngokokhamba kweminyaka ye-1940 begodu kwarhagala khulu, ngemva komnyaka we-1976. Inengi lamaSewula Afrika ebegade ligandelelwe lazibuthelela laba siqhema sokuphisakana ukuya phambili, ekubandakanya iihlangano zepolitiki, iihlangano zabasebenzi, iimphathimandla zendabuko kanye namanye amalunga weenjamiso eziqakathekileko zomphakathi. Umtjhagalo wokulwisana nombuso webandlululo waqiniswa nangaphetjheya ngemizamo yebumbano leentjhabantjhaba. Ukusukela phakathi kweminyaka ye-1980 umbuso webandlululo wafunyana ukuvalelwa nagaphandle okwakhulako kezomnotho kanye nakezepolitiki, ekwarholela ekujameni tsi komnotho, ukukhula kwesikolodo somkhakha wombuso kanye nokukhuliswa kwehlelo lezimizamo enganamisebenzi yamapholisa kanye nobulungiswa ukwenzela ukuvikela umbuso wesikhathi sebandlululo. Ngokukhamba kweminyaka we-1980 inarha, ibumbano layo lihlukaniswa phakathi mbuso webandlululo kanye nomnotho ohlulekako, besele ungasalawuleki.
17. Ukufika kwesikhathi sentando yenengi ngomnyaka we-1994 kwatshwaya ukuhleleka okutjha komphakathi. IsiVumelwano seSewula Afrika yeNtando yeNengi (i-CODESA) yarholela emakhethweni wokuthoma wentando yenengi ngomnyaka we-1994 kanye nokuphasiswa koMthethosisekelo wesiKhatjhana.
18. Ukutlanywa koMthethosisekelo omutjha wentando yenengi yeSewula Afrika kwakufanele kube yingcenywe eqakatheke khulu yokutjhuguluka kwenarha. UmThethosisekelo wesiKhatjhana we-1993 kanye noMthethosisekelo weRiphabhliki yeSewula Afrika we-1996 watshwaya ihlelo lomthethosisekelo omutjha lapho umThethosisekelo waba mthetho ophakamileko wenarha. Ukuyama ukusuka ngaphakathi kwesikhathi sombuso webandlululo ukuya ngaphakathi kweSewula Afrika yentando yenengi kwaba mikhulumiswana imirabhayo esukela ekuthalaliseni ebekuhlathulula bonyana akekho othumbako nofana olobako. Ngemva kwalapho, azange kwaba nokutjhutjhiswa kwabarholi nofana abajameli bombuso karhulumente webandlululo ngamacala wesikhathi sebandlululo. Esikhundleni salokho kwasungulwa iKhomitjhini yamaQiniso nokuBuyisana ngemisebenzi yokuphumelelisa ukubuyisana kanye nokubeka ilihlo ukuphiwa ukulitjalelwa kilabo ebegade benze umonakalo omkhulu ekuphulweni kwamalungelo wobuntu ngesikhathi seminyaka yombuso webandlululo.
19. Amakhetho wokuthoma wentando yenengi abanjwa ngomhlaka 27 kuSihlabantangana 1994 arholela ekukhethweni kwamakhulu amane wabajameli bomphakathi ngaphakathi kwesiBetha Mthetho seNarha kanye namalunga amatjhumu alithoba wendlu yeSinethi. Ihlanganyela yokuhlala kweenhlangano ezimbilezi yakhe isiGungu somThethosisekelo esibunjwe ngabutjha ngokugunyazwa ngaphasi kwesigaba 68(1) woMthethosisekelo wesiKhatjhana. I-CA yabawa ngaphasi koMthethosisekelo wesiKhatjhana bonyana kutlanywe begodu kwamukelwe umthethosisekelo ophелеleko eminyekeni emibili yokuhlala kokuthoma kwesiBetha Mthetho seNahra. Umthethosisekelo ophелеleko kufanele ukhambisane neenKambisolawulo zangokoMthethosisekelo ezimatjhumu amathathu nane ekwakhulunyisanwa ngazo begodu kwavunyelanwa ngazo ziinhlangano ngesikhathi seNdlelayekambiso yokuBonisana kweNengi leenhlangano e-Kempton Park. IKhotho

ebunjwe ngaButjha yangokomThethosisekelo yabawiwa bonyana iqinisekise kobana iinkambisolawulwezi zilandelwe, nofana azikalandelwa.

20. Ukutlanywa komthethosisekelo opheleleko kwathatha umzamo omkhulu. Nangaphandle kwezethulo ezenziwa ziinhlangano zepolotiki, izethulo eziziingidi ezimbili zaletswa malunga womphakathi kanye neenqhema zomphakathi. Amaphuzu wokulalelwa komphakathi athathwa begodu kwabanjwa neemfundobandulo.
21. Ngenyanga kaKhukhulamungu 1994, i-CA yahloma iinKomidi zoMmongoomo ezisithandathu ezaqalana neenKambisolawulo zangMthethosisekelo ezimatjumi amathathu nane bageodu yaqinisekisa nokobana izethululo ezifakiwe ngaphakathi koMthethosisekelo opheleleko zithotjelwe. IKomidi yomGomo ngayinye yasizwa bosolwazi mayela neKomidi yobuTheknikhali.¹⁵ Ngesikhathi ukuzibandakanya komphakathi begade kukhamba kuhle, phakathi kwesibanga ukungavumelani kweehlangano zepolotiki begade kukhula njalo.
22. Okuqakatheke khulu ngokutlanywa komthethosisekelo opheleleko kwaba kuhlonywa kweBandla eliziJameleko labosoLwazi boMthethosisekelo ngokwesigaba 72 somthethosisekelo wesikhatjhana, ababe negegunya lokululeka i-CA kanye nabosihlalo beenKomidi zomGomo, kanye nokusombulula ukungaboni ngelihlo linye.
23. Ngenyanga kaSewula 1995, umtamo wokuthoma osebenzako womthethosisekelo wakhiqizelwa ukuqaliswa yi-CA. Wavunyelwa yi-CA begodu bewamenyezwe ngomhlaka 22 kuSinyikhaba 1995. Kwenziwa amakhophi angaphezu kaziingidi ezine womtamo womthethosisekelo begodu asatjalaliswa ngomhlobo yethebhodi. Umphakathi waphiwa iinyanga ezintathu bonyana uphe umfakela.
24. Ngenyaka kaMhlolanga 1996, kwavela bonyana kuneenkinga ubuncani bazo ezima-65 ezingakasonjululwa eziphathelene nomtamo kanye nekubanjwa yipolotiki kezinye iinkinga ezimbalwa. Umtamo wesine osebenzako womthethosisekelo opheleleko wamenyezwe ngenyanga kaNtaka.
25. Abakhulumisani bahlangana e-*Arniston* esiFundeni seTjhingalanga ngenyanga kaSihlabantanga 1996 begodu umtamo wesihlanu womthethosisekelo opheleleko wakhiqizwa ngomhlaka 15 kuSihlabantanga. Iinhlangano begade zinesikhathi esingangeveke bonyana zivumelane ngomtamo ngaphambi kwesikhathi sokuvalwa ebegade kufanele undlalwe ngaso etafuleni ngaphakathi kwe-CA. Lokhu kwarholela emikhulumiswaneni yamahlangathi amabili, imikhulumiswano yamahlangathi amanengi kanye nemihlangano yeenkomidi ezincani. Emhlanganweni ebegade kugijinywa kiwo owathatha amalanga amabili owathoma ngomhlaka 18 kuSihlabantanga, kwafinyelelwa isivumelwano ngomtamo osisekelo kanye nesindlalelo kumThethosisekelo.

¹⁵ Theme Committee 1 was tasked with examining the character of the democratic state. Theme Committee 2 looked at the structure of government. Theme Committee 3 focussed on the relationship between the different levels of government. Theme Committee 4 examined fundamental rights, while Theme Committee 5 focussed on the judiciary and the legal system. Theme Committee 6 examined the specialised structures of government and was divided into a further 4 sub-theme committees: public administration, financial institutions and public enterprises, transformation and monitoring, and security services.

26. IKomidi yomThethosisekelo kwafanele icalisise iimphakamiso ezima-298 zokukhitjelelwa komThethomlingwa, ezandlalwa ziinhlangano ezihlukahlukileko. Ngesikhathi esiyiveke ngaphambi kwelanga lokuvalwa kokwamukelwa komthethosisekelo opheleleko, begade kusese nokungaboni ngelihlo linye phezu komutjhwana wepahla, ifundo kanye nomsebenzi. Ngomhlaka 6 kanye ne-7 kuMrhayili, isiBethamthetho somThethosisekelo sahlalana ngomnqopho wokubamba ikulumophikiswano yamaswaphela ngomThethomlingwa begodu nemikhulumiswano yamahlangothi amabili yaragela phambili. Ebusukwini bangomhlaka 7 kuMrhayili, isivumelwano sagcina sfinyelelwe mayelana nefundo.
27. Ngomhlaka 8 kuMrhayili 1996, uMthethosisekelo opheleleko wamukelwa yi-CA. Ekugcineni, amavowudi ama-421 agadangiswa akhambisana noMthethosisekelo. UmThethomlingwa wathunyelwa eKhotso yomThethosisekelo bonyana uyokuqinisekiswa. IKhotso yomThethosisekelo yabamba ukulalelwa kwamalanga alithoba okwathoma ngomhlaka 1 kuVelabahlalane. Imitlolo yezethulo kanye nokuphikisa ngomlomo kwathulwa ziinhlangano ezihlanu zepolitiki, kwathi iinhlangano zangeqadi ezimatjhumu abunane nane zathula ukuvumelani nakho. Iinhlangano ezimatjhumu amabili nekhomba zavunyelwa bonyana zithule ngomlomo ukuphikisana kwazo eKhotso.
28. Ngomhlaka 6 kuKhukhulamungu iKhotso yomThethosisekelo yathula isehlulelo nekwatholakala bonyana iinKambisolawulo zomThethosisekelo begade zingakalandelwa kezinye zeenqalelelo. Ezinye zeenqalelelo ezange zakghona ukudlula ekubuthelweni begade kungilezo eziphathelele: Nelungelo labaqatjhi bonyana bahlanganyele emikhulumiswanenindawonye; ukuvikelwa okwaneleko kwamalungelo asisekelo; ukuzijamela kanye nokungathathi ihlangothi komVikeli womPhakathi kanye nesiKhulu samaGcwetha; iKhomitjhini yeeNsiza zomPhakathi; ipahla kanye namandla waborhulumente bendawo begodu namandla kanye nemisebenzi yeemfunda. Ngomhlaka 11 kuSewula i-CA yaphasisa umtloko okhitjelelweko. Ngemva kokulalelwa kwamalanga amathathu okwathoma ngomhlaka 18 kuSinyikhaba, iKhotso yomThethosisekelo yaqinisekisa umtloko okhitjelelweko ngomhlaka 4 kuNobayeni. Ngomhlaka 10 kuNobayeni 1996, uMengameli uNelson Mandela watlikitla umThethosisekelo wokuthoma weSewula Afrika yentando yenengi *e-Sharpeville* bonyana ubemthetho. UmThethosisekelo wathoma ukusebenza ngomhlaka 4 kuMhlolanga 1997.
29. NgomThethosisekelo omutjha, umgomolawulo, ipahla lomthetho ekhona ihlelo lombuso webandlululo laphahlazwa begodu kwakhiwa isisekelo sentando yenengi kanye nombuso ongakhethululiko obunjwe ngeenkambisokolelo zesithunzi sobuntu, amalungelo wobuntu, itjhaphuluko, ukungabandlululani ngokobuhlanga, ukunganinani ngokobulili kanye nelawulo lomthetho. Ukufeza lokhu, umbuso wentando yenengi bekufanele usebenzele ukubuyisana kanye nokuhlalisana begodu nokuqinisekisa bonyana kuba namahlelo wokusebenza ngokuqeda ilifa lombuso webandlululo kanye nokulungisa ngabutjha ukungalingani kwangaphambili.
30. Ekulumeni kaMengameli uNelson Mandela kusiBethamthetho somThethosisekelo ngomnyanya wokwamukelwa komThethosisekelo omutjha nge-1996 wahlathulula umhlobo womphakathi iSewula Afrika ebegade ilinga ukuwakha. Wathi umThethosisekelo begade -

“kumfakelethu wokuzithoba ngaphakathi kwentando yenengi kanye nesiko lamalungelo wobuntu umhlaba zombebele; begodu kusithembiso sethu ebantwini bonyana akukho okuzasitjhugulula kilokhu. Woke umuntu uzakuzwisisa bonyana sinosibo ukuzibophelela kanye negunya senengi labantu benarha le sokutjhugulula iSewula Afrika ukusuka ngaphakathi kwesikhathi sebandululo ukuya kenganinani ngokobuhlanga, ukuphendula umbuzo wokutlhogeka kwemisebenzi kanye nokutlhogeka kwamakhaya, ukwakha zoke iinsetjenziswa ebegade zithatjelwa lidlanzani labantu isikhathi esimasentjhuri. Sifuna bonyana amadoda kanye nabafazi abazibopheleleko egunyeni lethu, kodwana abangakghona ukuphakama babe ngaphezu kweenqhema zobuhlobo babo begodu bacabange ngokweSewula Afrika sele iyoke”¹⁶

¹⁶ Address to the Constitutional Assembly on the occasion of the adoption of the New Constitution, May 1996

ISAHLUKO SESI-3:INTANDO YENENGI – KUPHELA KWAYO YOKE IMIHLOBO YOKUBANDLULULANA?

31. Ukufika kwentando yenengi eSewula Afrika ngomnyaka we-1994, kwarholela ngaphakathi kwesiko lamalungelo wobuntu njengesisekelo somthethosisekelo omutjha otjhaphulukileko kanye nenengi lamalungelo wobuntu, ekufaka hlangana amalungelo womnotho womphakathi, atolwe ngaphakathi komTlolo wamaLungelo woBuntu begodu afakiwe nangaphakathi komThethosisekelo wesiKhatjhana wangomnyaka we-1993 begodu abuyelelwe nangaphakathi komThethosisekelo wamaswaphela wongomnyaka we-1996. UmTlolo wamaLungelo woBuntu usebenza kikho kokubili okuthabaleleko kanye nokuvundlileko begodu usisekelo sentando yenengi eSewula Afrika. Ngesizathwesi, uphiwe ivikeleko elikhethekileko begodu imiThethomlingwa ekhabelela umThethosisekelo idinga ukwakhiwa ngobunengi bengeengcenywe ezimbili kezithathu ngaphakathi kwesiBethamthetho seNarha kanye namavowudu asekelako weemfunda ezisithandathu kezilithoba ezijanyelweko ngaphakathi komKhandlu ongamele iimFunda. Namhlanjesi amakhothwethu aqinisekisa ukuthuthukiswa ngefanelo kweenkambisokolelo iSewula Afrika ebunjwe ngazo ezifana nesithunzi sobuntu, ukulingana kanye nokuphakama komThethosisekelo. Namhlanjesi sifuna ukuhlanganisa yoke into esiyezakoko ngokukhambisana nehloso kanye neenkambisokolelo zomThethosisekelwethu – ngokusebenzisa umTlolo wamaLungelo woBuntu njengesikali sokulinganisa ukutholakala kwamalungelo wobuntu.
32. Ukwamukelwa komThethosisekelo ngomnyaka we-1996 kwaba kutshwayeka kwetjhuguluko elikhulu emlandwini wenarha le. Kwabizwa “ngesitifikedi sokubelethwa” kweSewula Afrika etja – inarha ehluke ngokupheleleko kunaleyo ebegade ingiyo ngaphambilini. Ilungelo lokulingana kanye nokuvikelwa ngokulinganako kanye nokuzuza emthethweni okuqinisekiswa ngokomthethosisekelo kufanele kuzwisiswe ngokuphambene nomlando wenarha wokungalingani, ukuninwa ngokobuhlanga, kanye nokuninwa ngokobilili. Umnqophethu wokwakha umphakathi wentando yenengi onganakuninana ngokobuhlanga, ukuninana ngokobulili ukusuka esikhathini esadlulako esibuhlungu. kunjalo, umThethosisekelo azange ufike ngokuphazima kwelihlo nofana ngekariso mraro: umphumela wemikhulumiswano emide – begodu nomlando omude notjhijiliweko ngaphambi kwalokho. Imibono eminengi eyiwumumetheko kukuyelelwa kweminyaka eminengi yomzabalazo. Emagameni waloyo ebegade aliJaji eliNgamele iKhotho yomThethosisekelo u-Mahomed -

“kezinye iinarha umThethosisekelo upha amandla kwaphela, ngesisetjenziswa somthetho, ukuvumelana kwemilando yeenkambisokolelo kanye neminqopho etjhuguluke ngokungezelelekileko ukusuka esikhathini esadlulako esinzinzileko kanye nesiphukileko ukwenzela ukuhlangabezana neendingo zekusasa. UmThethosisekelo weSewula Afrika uhlukele: esikhathini esadlulako ukhumbula kwaphela lokho okuvikelekako begodu ujamela nesiquanto sokuhlukana, begodu ulahlela ngaphandle, ingcenywe leyo yesikhathini esadlulako ephathisa amahloni yokuninana ngokobuhlanga, yokulawulwa, enemikhawulo kanye negandelelako, begodu nokubophela ngamandla entandweni yenengi,

ukubandakanyeka kwawo woke umuntu, ukukhathalelwa begodu nokukhuthazwa kokulingana kwabo boke abantu okuvezwe kuhle ngaphakathi komThethosisekelo. Umehluko ophakathi kwesikhathi esadlulako nekungilokho ekulahlela ngaphandle kanye nekusasa ofisa ukubophelela isitjhaba kilo ngelihlukileko kanye nelibanakala khulu.”¹⁷

33. Umutjhwana wokulingana (isigaba se-9) usisekelo samanye amalungelo aseSahlukweni sesi-2 somThethosisekelo, ngokuqalelela okufanako “nokuthatjelwa okuzeleko nokulinganako kwawo woke amalungelo kanye netjhaphuluko.” Isigaba se-9 sikhandela ukubandlula okungasifeya ngeenzathu ezithileko ezibaliweko.
34. **Ukubandlulula** Indlela ethileko yokuhlukaniswa – kukuhlukaniswa ngeenzathu ezingekho emthethweni. Lokhu kuhlathulula ukubandlulula ngokuya ngesinye seenzathu ezibalwe ngaphakathi kwesigaba 9(3) ekuthathwa njengokubandlulula okungasifeya, ukufikela lapho kuvezwa ubufakazi obuphikisa lokho. Kunekolelo ehlekileko yokuthi ukuhlukanisokho ngeenzathu ezibaliweko kuthwesa umthwalo labo ebazithole babongazimbi bokubandlululwa ngamaphethini wesikhathi esadlulako nofana kungakhandela isithunzi esisisekelo salabo abathintekileko. Iinzathu ezibaliwekwezi ngilezi ubuhlanga, umbala, ubuhlobo bemvelaphi, ubulili, ukuzithwala, ukuzibandakanya nobulili obuthileko, ubujamo bomtjhado, ubudala, ukukhubazeka, ikolo, ikolelo, isiko kanye nelimi, ukubelethwa kanye nemvelaphi.
35. **Ukungalingani** kudlala indima eqakatheke khulu ekulungiseni amaphetheni wokubandlulula wesikhathi esadlulako. Ngendlelayo elula, ukungalinganokhu kuphathelene neemfanelo ezimbalwa ezidlala indima ekubandlululweni abantu abahlangabezana nakho. Kumayelana nekululekeni kweemfanelo zezehlalakhule ekufaka hlangana ubulili, ubuhlanga, ubujamo, amandla, ikolo, ubutjhaba, ukuzibandakanya ebulilini obuthileko. “Isakhiwesi” singasetjenziswa ukuthokozela indlela ihlelo lokuthatha ihlangano kanye nokungalingani kwemiphakathi elenzeke ngayo eengabeni zamahlangothi amanengi. Ukungalinganokhu kuphikisa bonyana iinkambiso ezijayelekileko zokugandelelwa ezifana nokuninwa ngokobuhlanga, ukuninwa ngokobulili azikazijameli. Kunalokho ziyahlobana begodu zakha ihlelo lokugandelelwa elibumba “ukungalingani” kwemihlobo eminengi yokubandlululwa.¹⁸
36. Ngokuphikisekako umTlolo wamaLungelo woBuntu uyingcenywe yomThethosisekelo ebe nomthelela omkhulu eempilweni zabantu enarheni le. Njengombana amezwi wokuthoma wesahlukwesi athi: *“umTlolo wamaLungelo woBuntu lo usisekelo sentando yenengi eSewula Afrika. Umumethe amalungelo wabo boke abantu benarheneni yekhethu begodu uqinisa iinkambisokolelo zesithunzi sobuntu, ukulingana kanye netjhaphuluko yangokwentando yenengi.”*

¹⁷ S v Makwanyane, 1995 (6) BCLR 665, para 262

¹⁸ Puleng Segalo, “Gender, social cohesion and everyday struggles in South Africa”, [Psychology in Society](#) On-line version ISSN 2309-8708, Psychol. Soc. n.49 (2015) (http://www.scielo.org.za/scielo.php?script=sci_arttext&pid=S1015-60462015000200006)

37. ISewula Afrika iphasise inani lemithetho ukwenzela ukupha amandla iminqophayo yangokomthethosisekelo yokufeza ukulingana, isithunzi sobuntu, kanye nokuthuthukiswa kwamalungelo wobuntu kanye netjhaphuluko. Ngeminyaka amatjhumi amabili yokuthoma yentando yenengi imithetho engaphezu kwezi-1200 kanye neenkhibelelo ezihloselwe ukuphahlaza ibandlululo kanye nokuqeda yoke imihlobo yokubandlululana yaphasiswa yiPalamende. Imithetho emitjha kanye nekhithelweko yabakhona ukwenzela ukuqinisekisa ukulingana kanye nokukhandela ukubandlululwa, efana, isibonelo, i-*Employment Equity Act, 1998*,¹⁹ i-*Promotion of Access to Information Act, 2000*,²⁰ i-*Promotion of Administrative Justice Act, 2000*,²¹ kanye ne-*Promotion of Equality and Prevention of Unfair Discrimination Act, 2000*.²² Ngaphezu kwalokho, urhulumente omutjha waphasisa imithetho engamele ukwabelana ngenarha, ukukhuliswa kwesikhathi sokusebenzisa inarha, ukukghonakaliswa kwelungelo lokuthola izindlu kanye nokuqalelelwa kokusizwa komphakathi kilabo abatlhogako. Imithetho yaqalana ihlelo lokungalingani kanye nokunamdululana okungasi feya ebegade kwenzakala emazikweni womphakathi kanye nemikghwa begodu nendlela yokwenza izinto kwamaSewula Afrika ukufikela lapho lokhu kuqalela phasi iinrhuluphelo zentando yetengi yangokomthethosisekelo wethu.
38. Nokho bekuzabe kukuthloga ubuhlakani bona kulindela bonyana imithetho etlanywe ngokwezinga eliphezulu ukuthi iqede ukugandelelwa kanye nokuninwa ngokobuhlanga kanye nokubandlululwa okuthethe amatjhumi weminyaka kanye namasetjhuri. Ilifa lesikhathi sebandlululo kanye nokubuswa ngebeentjhaba lisajamile. Njengombana obegade anguMengameli uThabo Mbeki watshwaya ngomnyaka we-1998 -

“ISewula Afrika yinarha yezizwe ezimbili. Esinye sezizwezi ngesimhlophe, esiphumelelako, nangaphandle kobulili nofana lapho sihlala khona. Sikghona ukufinyelela umnotho, zepilo, ifundo, zokuthintana kanye nomthangalasisekelo othuthukileko. Lokhu kusenxa sikghone ukuphikisa, bonyana nangaphandle kwebandlululo eliragela phambili lobulili mayelana nabafazi, woke amalunga wesizwesi kunekghonakalo yokuthi angasebenzisa ilungelo lawo lokuthola amathuba alinganako, amathuba wokuthuthukiswa lawo umThethosisekelo we-’93 ozibephelele ngawo enarheni yekhethu.

Isizwe sesibili kanye nesikhulu seSewula Afrika ngesinzima begodu ngesitlhagako, kuthi abathinteki khulu kiso kube bafazi eendaweni zemakhaya, isitjhaba sabanzima semakhaya ngokuvamileko kanye nabakhubazekileko. Isizwesi siphila ngaphasi kobujamo obukude khulu netuthuko yezomnotho, zepilo, ifundo, zokuthintana kanye nomthangalasisekelo. Kusebaleni bonyana akunakghonakalo yokusebenzisa lokho okuzwakala njengenolwana okulilungelo lokuthola amathuba alinganako, ilungelwelo lisebenza kwaphela phakathi kwesizwe esinzima ukufikela lapho kungasakghonakali ukubonakala kwalo.

¹⁹ umThetho weNomboro 55 we-1998

²⁰ umThetho weNomboro 2 we-2000

²¹ umThetho weNomboro 3 we-2000

²² Act No. 4 of 2000

Iqiniso ngezizwe ezimbilezi, kuqinisekiswa kuthuweleliswakobuhlanga, ubulili kanye nokungafani kweendawo okwabelethelwa kizo zesikhathi eside khulu samakholoniyali kanye nesikhathi sebandlululo sokubuswa lidlanzana labamhlophe, kubumba isisekelo salokho okubonakalako nekuqinisekisa bonyana, nangembala asisi sisizwe esisodwa, kodwana sizizwe ezimbili.”

39. Ituthuko eqakathekileko yenziwe ematjhumini amabili weminyaka yetjhaphuluko – nokho kusese kunengi khulu ekusafanele kwenziwe. Nanjenganje, kusese neentjhijilo esifanele siqalane nazo. Umphakathi weSewula Afrika usahlukanisekile. Iinkolo ezinengi, amadorobha kanye neendawo zokudumisa zihlanganisiwe, kodwana ezinengi azikahlanganiswa. ISewula Afrika isese ngenye yeenarha ezinokungalingani okukhulu umhlaba woke kezomnotho. Ilungelo elikhethekileko elikhambisana nobuhlanga, ubujamo kanye nobulili alikasukwa ngokuzeleko. Iimbono ezinye, ezidenjwe ngenzasi, zipha isithombe selifa elisajamileko lesikhathi sebandlulu.

ISAPHLUKO SESI-4:YINI ESIHLUKANISA PHAKATHI? UKUQALANA NAMAGAZUKO

40. Ubuchaka kanye nokungalingani okunabisa ukuhluka ngokobuhlanga kwakhe amagazoku layo ekufanele iSewula Afrika ilwisane nawo nangabe ifisa ukuqeda ilifa lesikhathi sebandlululo. Abantu abakaqalani nokuchaka kanye nokungalingani kwaphela nekusisakhiwo kanye nokuhleleka ngokwemvelo, kodwana ngaphasi kobujamo obunengi, bazithola babandlululwa ngokweenzathu ezimbalwa ezihlukileko.
41. ISewula Afrika ayithagiswa kungalingani ngokobuhlanga kwaphela, kodwana nangokomuntu ngamunye nofana ukubekezelelwa “komuntu”. Ngebangelo i-NAP ayikahlosi ukulungisa isakhiwo sokungalingani njengombana urhulumente uneendlela, ezifana nomTlobo wamaLungelo woBuntu, imithetho yekhayapha, kanye neembopho ezihlukileko zeentjhabatjhaba begodu neemvumilwano zeentjhabatjhaba ekubingwe ngazo ukurarulula umraro lo.
42. Ngokuphathelene nokuninwa kanye nokubandlululwa ngokobuhlanga, sinomthetho onqophe khulu kilokho ofana ne-PEPUDA²³ kanye nomThetho wokuQatjha ngokuLinganisa.²⁴ Inengi “Iemiraro wemida yobutjhapho” – efana nokuchaka, inarha, izindlu – ziyakhambisana nobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okungabekezelelekiko begodu ngebangelo kunesidingo sokuragela phambili siqinise imigomolawulo kanye namahlelo akhona.
43. Ngebangelo i-NAP itholakala ngendlela yephahla lomongo, lapho iqalene khona nobuhlanga, ngaphakathi kwehlelo elikhulu lamagadango karhulumente, ekufaka hlangana i-PEPUDA kanye nomthetho ephathelene nobulelesi beHloyo otjhejiweko.

Inarha

44. Inarha iyindaba emasikizi khulu ngokudluleleko kumaSewula Afrika begodu “kutlhogeka bonyana sibuyele ebulungelweni lomlando ukwenzela ukuveza elinye iqiniso elingehli kamnandi mayelana nathi”.²⁵
45. Ukumukwa inarha kukuthoma komrabho wokungalingani ngokomnotho kanye nokususwa kwenengi lama-Afrika eSewula Afrika. Amaphetheni wobunini benarha asakhombisa umlando wokubuswa ngeebentjhaba Kanye nokuthatha ihlangotho ngokomnotho kombuso webandlululo. Nanagaphandle kwamahlelo wokwabelana inarha ahlonywe ngukurhulumente wentando yenengi, inengi labantu abanzima basahlala eendawemi

²³ The Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act 4 of 2000)

²⁴ The Employment Equity Act, 1998 (Act 55 of 1998)

²⁵ Nzimande, “Land Question: It’s about identity”, Mail & Guardian, 28 Feb 2018 (<https://mg.co.za/article/2018-02-28-land-identity-white-guilt>)

zemakhaya begodu zibizwa nangokuthi kuhlalwa ngokungekho emthethweni, lapho kungananarha enomrhula. Bahlala bavalelwa ngaphandle ebunini bepahla egugubazwa mabulungelomali kanye nenarha yokulimela ukurhwebela kanye namabubulo. Lokho kwakhe umkhawulo omkhulu wekghono lokukhiqiza kwabantu bendlu enzima kanye namandlabo wokuzenzela umnotho ukwenzela ukuphepha igandelelo lobuchaka.

46. Ngemva kwamasentjhuri wokubuswa ngebeentjhaba kanye namatjhumini weminyaka yokubuswa ngebandlululo, iSewula Afrika yentando yenengi ihlele ukwaba ngobutjha amalungelo wenarha njengendlela yokulungisa ukubandlululwa kwesikhathi esadlulako begodu nokwakha iinsekelo zokuthuthukiswa okulinganako. Ukuqinisekisa bona kuba nobulungiswa kezehlala kuhle, ukutjhugululwa kwenarha kubingwe ngakho ukususa nangaphezulu ukubandlululwa ngokobuhlanga: kuzaba yindlela yokusiza abatlhagako begodu kuzakukhuthazwa ukulingana ngokobulili begodu, nangokutjhugulula kwamaphetheni wokukhiqiza kanye newokusisa, ngokuthoma ngokutjhugulula ukuhlukaniseka kabili kezokulima ngokuthi kususwe imida ephakathi kweendawo zokurhwebela kanye nezomphakathi zenarha.²⁶
47. Ukwabiwa kwenarha kuqakathekile eqhingeni leSewula Afrika lokulwisana nobuchaka. Lokhu kuyingcinye yenarhethu yokuqakathekileko ekulungiseli ukuthlogeka kobulungiswa ngokomlando wokuthathelwa inarha, nekungikho ekuragela phambili nokwakha ubugwili eSewula Afrika namhlanjisi.
48. Ikulimo phikiswano ekhona nje mayelana nesigaba 25 somThethosisekelo iphathelele nombuzo wenarha kanye nokwabiwa ngokulinganako kwenarha. Lokhu kuyadingeka ekulungiseni ukuthlogeka kobulungiswa kwangokomlando kanye nelifa lokuthathelwa inarha elathoma ngomnyaka we-1652 ngekholoniyalizimu begodu kwarhagaliswa ukuya phambili mbuso webandlululo. Ukungalingani ngokwenarha kanye nomthelelakho omumbi kunobungozi ekusaseni lokunziza kwepolitiki kanye neendingo zokubuyisela izinto esigeni.
49. UkuHlolwa kweNarha kwangomnyaka we-2017 kwabika bonyana phezu kwama-76% wenarha yokulima enarheni le, ama-72% wayo aphethwe maSewula Afrika wendlu emhlophe, i-15% iphethwe babantu abama-*Coloured*, i-5% iphethwe babantu bendabuko yama-*Indian*, i-4% iphethwe ma-Afrika begodu kuthi i-3% iphethwe ngabanye. Abafazi baphethe kwaphela i-13% yeendawo zokulima. Namhlanje, ubunini benarha eSewula Afrika busese hlangothi linye hlangua nemida yobuhlanga kanye nebandlululwa langokobulili.
50. Isitjhijilo sokutjhugululwa kwenarha kukobana kwenzeka kabuthaka khulu. Ngomnyaka we-1994 urhulumende wazibekela umnqopho wokudlulisela ama-30% wenarha enomrhula ozeleko ngomnyaka we-2014. Lokhu azange kufezwe. Ukusetjenziswa kweenkambisolawulo ezithi “kwenani lemakethe” kanye “umthengi okhanukako”, umthengisi okhanukako” esikhundleni se “sokulungileko kanye nokulinganako” ekuliliseni kwabanini benarha kungezinye zeenqabo ezikhulu ezidlala indima.

²⁶ **Land Redistribution in South Africa**, Commissioned report for High Level Panel on the assessment of key legislation and the acceleration of fundamental change, an initiative of the Parliament of South Africa, Kepe & Hall, September 2016

51. Ukufikela namhlanje, i-8.4 yeengidi zamahekthara wenarha zezitholakele ngeminqopho wokutjhugululwa kwenarha; i-4.9 yeengidi zamahekthara itholakele ngokusetjenziswa kwehlelo lokwabiwa kwenarha kanye nehlelo lesikhathi sokusebenzisa inarha; begodu i-3.5 yeengidi zamahekthara itholakele ngokusetjenziswa kwehlelo lokubuyiselwa inarha. Lokhu kulinganisa ne-10% yenarha yokulima.
52. Isitjhukumiso sePalamende mayelana nokuThathwa kweNarha ngaphandle kwesiLiliso sarholela bona iKomidi yokuBuyekezwa komThethosisekelo yePalamende yenze iphenyo, hlangana nokhunya, elimayelana nesidingo sokukhitjelelwa kweSigaba 25 somThethosisekelo ukwenzela ukukghonakalisa umbuso bonyana uthathe inarha ngaphandle kwesililiso.
53. Imizamo yokulungisa ukwabiwa kwenarha ngokulinganako ikhutjhukiselwe esigabeni esiphezulu sakarhulumende, ngokusebenzisa ikomidi eyakhiwe ngabongqongqotjhe bakarhulumende (i-IMC) engamele ukutjhugululwa kwenarha – erholwa liSekela likaMongameli – eyahlonyelwa ukuthintanisa kanye nokuphumelelisa amagadango zokurhabisa ukwabiwa kwenarha. Ngaphezu kwalokho, ibandla labaluleki bakamengameli abali-10, abajamele yoke imikhakha, bakhonjelwe bona baphe iimphakamiso zokusetjenziswa nguRhulumende ukwenzela ukuphumelelisa ukutjhugululwa kwenarha okunefeya kanye nokulinganako ngeendlela zekambiso yokulungisa ibandlululo lesikhathi esadlulako, inyuse umkhqizo kezokulima, ithuthukise ukukhula komnotho kanye nokuvikela ukutholakala kokudla.

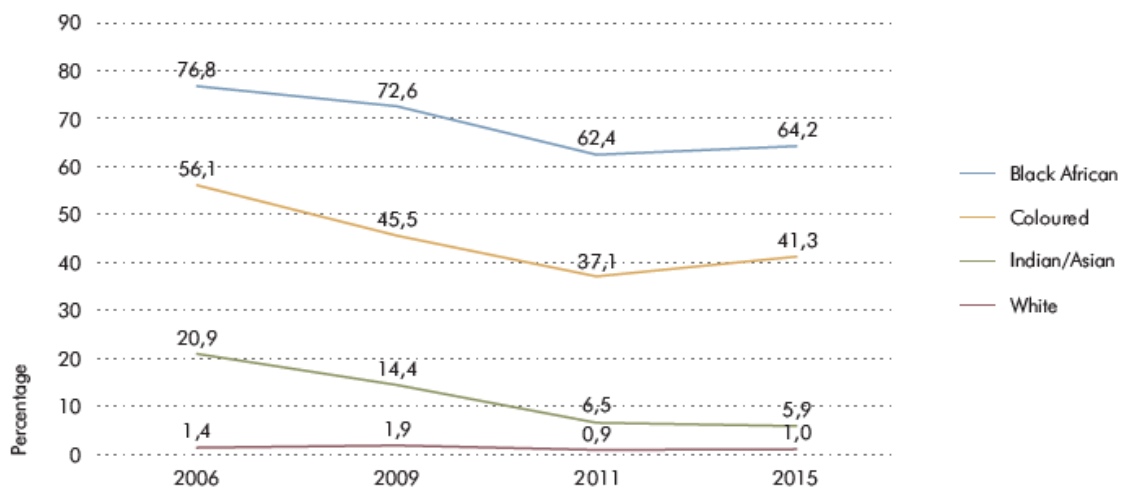
Ubuchaka, ukungasebenzi kanye nokungalingani

54. Njengombana iphikiswano iragela phambili nje ngesisetjenziswa elifaneleke khulu sokulinganisa ubuchaka, akukho ukuphikisana ngokobana ubuchaka kanye nokungasebenzi kusesi ziintjhihilo ezikhambisanako ezinobungozi ekunzinzeni kokuhlaliseka komphakathi weSewula Afrika. Kunalabo abanghangha ngokuthi iSewula Afrika yentando yenengi begade ingenza begodu bekufanele yenze okukhulu ukulwisana neentjhihilezi. Nanyana imicabango le ingaba liqiniso kangangani, iqiniso kukuthi ubuchaka lobo iingidi zamaSewula Afrika eziphila ngaphakathi kwabo bumiphumela enqophileko yomlando wokubuswa ngebeentjhaba kanye nombuso webandlululo.
55. Njengombana iSewula Afrika yangemva kwesikhathi sebandlululo ithabele iminyaka embalwa yepumelelo yokukhula komnotho, begodu nangaphandle kukungenelela emphakathini kwakarhulumende, ubuchaka busaragela phambili nokunghanghabala. Okuhlangahlanganisa lokhu ukuya phambili sikhala esivuleka ukuya phambili phakathi kwalabo *abanolutho* kanye *nabanganalutho*, kwenza iSewula Afrika ibe ngenye enemiphakathi engalinganiko okukhululu iphasi loke. Ukukhula komnothokhu kuhlathulule bonyana iinjinga ziragele phambili nokunjinga begodu abatlhagako baregela phambili nokutlhaga okudluleleko, kuthi amazanga wobuchaka athintene khulu ngokungalinganiko aziwa babantu abanzima.

56. Urhulumende uzibophelele ekuqedeni ubuchaka, begodu umgomo weemali zikarhulumende ngesinye zeensetjenziswa eziqakathekileko eziveza ukuzibophelelokhu. Ifomula yokwaba ngokulinganako esetjenziselwe ukuqunta ngokudluliselwa eengabeni zesifunda kanye nezendawo zikarhulumende zimumethe ingcenywe yobuchaka njengendlela yokwabiwa ngobutjha. 'Umrholo wesondlo' usetjenziswe njengendlela yokwabiwa kwesabelomali sikarhulumende ekubingwe ngaso ukuthuthukisa iimpilo zabantu abatlhagako kanye nokunciphisa iindleko zabo zokuphila. Hlangana nokhunye, lokhu kwafezwa, ngetjhejo lezamaphilo elisimahla; iinkolo ezingabhadalwako; isondlo sabantu abadala kanye nesabentwana; izindlu, kanye nefundosisekelo esimahla, (amanzi, igezi kanye nokuhlwengeka) emakhayeni atlhagako. Nanyana imigomolawulo le kanye nokungenelelokhu kubangele enzuzweni etlhoga ukunakwa okukhulu ekuphunguleni ubuchaka ukusukela ngomnyaka we-1994, inarha iragela phambili nokuqalana nesitjhijilo sezinga eliphezulu lobuchaka, izinga eliphezulu lokungalingani kanye nezinga eliphezulu lokungasebenzi.
57. Njengombana kunedlanzana elincani lesilinganiso kodwana sigaba esiphathekako sendlu yabantu abanzima abahlomulileko ehlukaniselweni lentando yenengi, nokho ubuhlanga ebuninini bobugwili busabonakala emiphakathini esaqalene nokuzitjhaphulula emnothweni womphakathi ohlelwe ngombuso webandlululo. Okusisekelo, umbuso webandlululo utjhiye iSewula Afrika yentando yenengi nelifa elingazwisisakaliko lapho ubuhlanga kanye nesigaba zinamathelelene khona.
58. Ukuzwisisa okusisekelo kobuchaka njengokwakhiwe mumuntu begodu, ngebangelo, njengento engaqedwa, kugandelelwa khulu munqopho weHlelo laGadango leNarheli wokulwisana nokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhunye okhukhambisana nakho okungabekezelelekiko. I-NAP ithatha njengesithomo sayo bonyana ukubandlululwa ngokobuhlanga kanye nokuvallelwa ngaphandle kwabantu abanengi bendlu enzima kusese sizathu esikhulu esingunobangela wokobana kubayini abantu abanengi enarhenethu basatlhoga.
59. Ubuchaka budlala indima eqakathekileko ekudzimeleleni kokuninwa ngokobuhlanga. Ngebangelo, ukwabiwa ngokulinganako kwamandla womnotho kusehliziyweni yetjhuguluko elifuneka khulu lokuhlobene nobuhlanga kanye nokunziza komphakathi eSewula Afrika.
60. Ubuchaka buthintaniswa nokuzibandakanya. Njengombana i-*United Special Rapporteur on Extreme Poverty and Human Rights* inghangha ngokulungileko bona, ubuchaka bumraro orhabekileko wamalungelo wobuntu. Labo abaphila ngaphasi kobujamo bobuchaka obudluleleko, amalungelo wobuntu akafinyeleleki. Hlangano nokhunye okunengi kokudinywa amathuba, abatlhagako kanengi batlhoga ifundo, itjhejo lezepilo nofana amanzi wokusela kanye nohlwengeka okusisekelo. Kanengi bavalelwa ngaphandle ekuzibandakanyeni ngokufanelekileko eendleleni zekambiso yepolotiki kanye nokufuneni ubulungiswa bokuphulwa kwamalungelwabo wobuntu. Umtlhago odluleleko ungaba *ngonobangela* wokuphulwa okunqophileko kwamalungelo wobuntu, isibonelo kungombana abatlhagako bakatelelekile bonyana basebenze ngaphasi kobujamo obungakaphephi

nobunobungozi kezepilo. Khonapho, umtlhago ungaba *miphumela* yokuphulwa kwamalungelo wobuntu, isibonelo kulokha abentwana bangakghoni ukuphepha umtlhago ngebanga lokuthu uRhulumente anganikeli ngesizo elaneleko lokufinyelela ifundo. Ukuqedwa komtlhago odluleleko kufanele kungathathwa njengombuzo wokuthanda, kodwana njengendaba yamalungelo wobuntu ekatelelekileko.²⁷

61. Abantu abanzima beSewula Afrika ngibo abakhombisa kanengi amazinga aphezulu khulu wobuchaka. Ngomnyaka wee-2015, ama-47% wamakhaya aphethwe babantu abanzima beSewula Afrika begade atlhaga. Lesi begade kusilingani esikhulu khulu nasiqathaniswa nama-23% wamakhaya aphethwe babantu abama-*Coloured*, kuthi ubuncani obungaphezu kwe-1% lamakhaya ahlangua naphethwe babantu abama-*Indian/Isian* weSewula Afrika, kanye nangaphasi kwe-1% hlangua namakhaya aphethwe babantu abamhlophe beSewula Africa.²⁸ Abantu abanzima be-Afrika bathwele isabelo esikhulu sobuchaka ngokujamiselela abantu abangaphezulu kwabalithoma kibo boke abalitjumi abaphila ngaphasi kwe-UBPL (umuda womkhawulo ophezulu wobuchaka). **Ihlelo loku-1** elingenzasi likhombisa ubuchaka besibalo sabantu ngokuya ngesiqhema sesitjhaba ngasinye ngomnyaka wee-2006, 2009 newee-2011 kanye newee-2015:



62. **Ihlelo lesi-2** elingenzasi likhombisa ubuchaka ngesibalo sabantu kanye nomehluko wobuchaka ophakathi kweentjhaba ngomnyaka wee-2009 newee-2011 kanye newee-2015.

²⁷ <https://www.ohchr.org/EN/Issues/Poverty/Pages/SRExtremePovertyindex.aspx>

²⁸ Overcoming Poverty and Inequality in South Africa, An Assessment of Drivers, Constraints and Opportunities, (undertaken by The World Bank, the National Planning Commission Secretariat at the Department of Planning, Monitoring and Evaluation, and Statistics South Africa) March 2018

	Headcount (P_0)				Poverty gap (P_1)				Severity (P_2)			
	2006	2009	2011	2015	2006	2009	2011	2015	2006	2009	2011	2015
Total	66,6	62,1	53,2	55,5	35,6	33,5	25,5	27,7	22,5	21,3	15,0	17,0
Black African	76,8	72,6	62,4	64,2	41,8	39,8	30,3	32,5	26,6	25,5	18,1	20,1
Coloured	56,1	45,5	37,1	41,3	24,9	20,4	14,3	16,9	14,3	11,3	7,3	9,1
Indian/Asian	20,9	14,4	6,5	5,9	6,9	4,0	1,9	1,5	3,2	1,4	0,8	0,5
White	1,4	1,9	0,9	1,0	0,4	0,8	0,4	0,4	0,2	0,5	0,2	0,2

63. Amaphesende wabantu abahlomule esondlweni somphakathi akhuphuke kanengi ukusukela kali-12,8% ngomnyaka wee-2003 ukuya ema-30,8% ngomnyaka wee-2017. Ngesikhathi sinye, amaphesende wamakhaya athola isondlo esisodwa ubuncani baso akhuphukile ukusuka ema-30,8% ukuya ema-43,8% ngomnyaka wee-2017. Abantu abanzima be-Afrika abangaphezulu koyedwa kwabathathu (33,8%) bafumene isondlo, nakuqathaniswa nama-29,3% wabantu abama-*Coloured*, kanye ne-14,5% yabantu abama-*Indian/Asian*. Ngokuqathaniswa, i-6,1% yabantu besitjhaba sabamhlophe bafumene izondlo.²⁹
64. Umbiko wamuva nje ozeleko³⁰ owenziwe liBulungelomali lePhasi ngokubambisana ne-Ofisi likaNobhala weKhomitjhini yamaHlelo weNarha emNyangweni wezokuHlelwa, ukuTjheja nokuHluzwa, begodu nePhiko lezeeMbalobalo leSewula Afrika utshwaye bonyana, amazinga wobuchaka sele akawoke aphaasi namhlanjese nakuqathaniswa newangomnyaka we-1994. Ukukhula komnotho okuphezulu nokungatjhugulukiko ngemva kokuphela kwesikhathi sebandlululo ngomnyaka we-1994 ukufikela ngomnyaka wee-2011 kusekele ukuphungulwa kobuchaka eSewula Afrika, nanyana amathemba wokukhula komnotho besolokho ehla eminyakeni yamuva nje. Ngalesi isikhathi umnotho awakhi amathuba wemisebenzi aneleko, begodu isilinganiso sokungasebenzi begade sijame ema-27,7% ekotareni yesithathu yomnyaka wee-2017. Ilutjha kanye nabasebenzi abanganamakghono ngibo abathwele igandelelo lomraro lo njengombana abaqatjhi bafuna abasebenzi abanamakghono, begodu isilinganiso selutjha elingasebenziko begade sijame ema-38,6%. Ngebanga lalokho, iinlinganiso zobuchaka zikhuphukile phakathi komnyaka wee-2011 kanye newee-2015. Ilemukweli lisikhumbuzo seqiniso lokobana iintjhihilo zenarha kezomnotho nehlalakhle zingenelele khulu, zakhele begodu ngezesikhathi eside.

Ukutjhugululwa kwamaziko wombuso kanye newangeqadi

65. Ngaphasi kwekholoniyalizimu kanye nesikhathi sebandlululo, imikhakha yamaziko wombuso kanye newangeqadi begade asetjenziwa njengeendlela zokubandlulululana ngokobuhlanga kanye nokugandelelwa kwabantu abanzima. Ilifa lokubekelana umsebenzi lisazibonakalisa nangaphasi kweSewula Afrika yentando yenengi namhlanjesi. Njengombana ituthuko yenziwe ngaphakathi embusweni, ukutjhugululwa kweendawo ezinengi akwanelisi kühle.

²⁹ GHS 2017, Statistics SA

³⁰ Overcoming Poverty and Inequality in South Africa, An Assessment of Drivers, Constraints and Opportunities, (undertaken by The World Bank, the National Planning Commission Secretariat at the Department of Planning, Monitoring and Evaluation, and Statistics South Africa) March 2018

Umkhakha wangeqadi awukatjhuguluki msinyazana ngendlela ekufane ngayo naziza ekutjhugululweni, ekufaka hlangana okuphathelele nokwakhiwa kweendawo zokusebenza zesiko lokungabandlululi.

Ifundo

66. Ngokomlando, ifundo begade isisetjenziwa segandelelo eSewula Afrika. Ukudinywa kwabantu abanengi ifundo elinganako kanye nenganiniko ngokobuhlanga begade kungesinye samaqhima amakhulu wekholoniyalizimu kanye nesikhathi sebandlululo ukuqinisekisa ukungathuthuki kwabantu abanzima, kanye nokunokubadima ilungelo lokuthola ilwazi. Kukufakwa kwenengi labantu abanzima ngaphasi kwefundo ephasi kanye nebandlululwa ngokobuhlanga i-*Bantu Education* ekurholele emlandwini womtjhagalo wabafundi kanye nokuphikisa kwabo kwangomnyaka we-1976 kanye nokhunye. Ilifa lehlelveli lefundo ephasi le liragela phambili nokuzibonakalisa enarhenethu nanamhlanjesi. Ijima le-*#RhodesMustFall* siqubulo esathoma eYunivesithi ye-*Cape Town* ngomnyaka wee-2015 begade unqotjhiswe ekulwisaneni nesifaniso sesikhumbuzo sika-*Cecil John Rhodes*, nokho ijima latshwaya ukuthoma komtjhagalo omkhulu wabafundi. Inarha yoke, abafundi bazwana “ngelokutjhatjhululwa esikweni lekholoniyalizimu kwamayunivesithi kanye nefundo ephakamileko yasimahla, hlangana nokhunye okunengi.
67. Iinqabo zokungalingani zokuphumelelisa ilungelo lefundo zikhona. Irhubhululo likhombise kanengi bonyana ilawulo elinamandla lemiphumela yefundo eSewula Afrika kubujamo bomnotho nehlalakhule. Ngokutjheja umlando weSewula Afrika, kuneragelo phambili yomtlhago, ubuhlanga kanye nomlando wokubandlululana. Nanyana imigomolawulo yefundo kanye nomnotho yenzelwe ukukhuphula abatlhagako nokho umphumela omumbi wemakhaya ababuya kiwo angekhe waqedwa ngokupheleleko. Izinga lokuthuthuka kwezehlalakhule kanye nomnotho enarheni kungebangelo kusiqabo esizokuthatha isikhathi eside ukuthi kufunyanwe ilungelo lefundo ngokuzeleko.
68. ISewula Afrika isaqalene neentjhijilo ezikhulu zokuninwa ngokobuhlanga kanye nokungalingani eenkolweni kanye nemazikweni wefundo aphakamileko. Nangaphandle kwesibalo sokuphumelelisa kanye nokuphasiswa kwemithetho elwela ituthuko ukurhabisa ibambiswano, inarhethu isasahlelwa zizehlakalo ezibufakazi bonyana idimoni lokuninwa ngokobuhlanga eenkolweni kanye nemazikweni wefundo aphakamileko libhala ukusuka, begodu nokobana inengi lamazikwethu wezefundo aragela phambili nokutholana phezulu nokuhlanganisa ubuhlanga.
69. ISahluko se-9 seHlelo lokuThuthukiswa kweNarha sibonela phambili inarha lapho boke abentwana bangafinyelela bebahlomule efundweni ephakamileko yekhwalithi. Kuseseneentjhijilo ezisaqalene nefundo. Amafektha wangaphandle kwesikolo, afana nobujamo nobuchaka kanye nebomnotho nehlalakhule, adlala indima. Iindingo zomndeni, ukusebenzela ekhaya, kanye nokuzithwala kubamba labo abangafumani imilayo. Ngaphezu kwalokho, abafundi abanengi eenkolweni zeSewula Afrika baqalene nesiqabo selimi eenkumbeni zokufundela.

70. Amanye amafektha afaka hlangana bonyana abentwana beSewula Afrika abahlali ekhayeni elilodwa nababelethi babo bamambala. Umtlhago kanye nakungakafundi kwabadala kanengi kuba siqabo esikhandela ababelethi abakhona ukuthi bangafaka isandla efundweni yabantwana babo. Inengi labantu abatjha liphundwa lithuba lokufumana ifundo ephakamileko, ngombana bangakghoni ukuyibhadalela.
71. ISewula Afrika ineenkolo zakarhulumende kanye nezizijameleko. Ukusukela ekupheleni komnyaka wee-2015, begade kuneenkolo zikarhulumende ezizi-23 905 kanye neenkolo eziyi-1 786 ezizijameleko.³¹ Iinkolo zikarhulumende zifaka hlangana nalezo isekelo lazo lezeemali elivela kurhulumende begodu ezinye zazo zisekelwa ngeemali kancani mkhandlu olawula iinkolo. Kanengi kuba nokuhluka ngokweretjhiyo yomfundisini nomfundi; iindawo zokufundela, iinsetjenziswa, kanye nokubhadaleka okuphakathi kwemihlobo yeenkolo ezihlukileko.
72. Esinye seentjhijilo esikhulu ngesokobana iinkolo kanye namaziko wefundo ephakamileko akakabambani ngokuzeleko. Sidinga ukulungisa ilifa lefundo esihlukaniso kanye nokulungisa iindlela ekuthathwa ngazo izinto kanye nokuzindlekela ekungikho ekubangela ukuragela phambili kanye nokuba khona kokuninwa ngokobuhlanga. Sidinga nokulungisa ukuphungulwa kanye nokuthathwa kwehlangothi kwendlela umlando othulwa ngayo begodu nokhuthaza ukubekezelela kanye nehlonipho yobuhlanga, ukuhluka ngokwesiko kanye nangekolo.
73. Kuqakathekile ukuhlanganiswa kwebandulo lokuliswana nobuhlanga nefundo ngaphakathi kwekharikhulamu, khulukhulu iingcinye zeenkambisokolelo kanye nentando yenengi begodu nokusungula ikharikhulamu esebenza ngokuthembeka, ngokungathathi ihlangothi kanye nangeqiniso naziza phezu kwesikhathi esadlulako esizwisa ubuhlungu begodu ikhuthaze ukuvangwaokukhulu kweenkolweni. Kufanele siqinisekise bonyana iinkolo azilwisani nokuhlukaniseka ngokobuhlanga kwaphela kodwana nokuthi zivangile. Iinkolo kufanele zikhombise iimfundo zemvelaphi, ukuhlukahluka kwethu kanye nokunotha kwamagugu wamasiko wenarhethu. Namhlanje urhulumende uze nesibalo seendlela zokuqinisa amalungelo wobuntu kanye nokwazisa ngomthethosisekelo eenkolweni. Amagadango afana nephaliswano lokuPhikisana ngomThetho kwabafundi beenKolo zeNarha, iphaliswano i-*Albert Luthuli oral history* kanye nokuhlonywa koMlando njengesifundo esikatelelekileko eenkolweni kuziindlela eziqakathekileko ekuthuthukisweni ukufundisa ngamalungelo wobuntu. Ngaphezu kwalokho, iinkolo ezinganikeli ngananyana ngiliphi lamalimi wendabuko seziyakatelelwa bonyana zenze njalo.

Ukukhiqizwa kwelwazi

74. Ukugandelelwa kanye nokubandlululwa kwabantu abanzima eSewula Afrika begade kuvikelwa ngeenhlathululo zokukhohliswa ngesayensi emamanga, eyasefwa maziko wokukhupha imitlolo wabantu abamhlophe ngehloso yokukhithiza amaqiniso womlando we-Afrika kanye nokukhombisa abantu abamhlophe njengesitjhaba esihlakaniphe kokungaphezu kunezinye iintjhaba. Abantu abanzima ngaleyo indlela begade bavalelwa

³¹ <https://www.education.gov.za/EducationinSA/tabid/327/Default.aspx>

ngaphandle emikhakheni yokukhiqizwa kwelwazi, begodu kanengi begade kutlolwa ngabo kwaphela ngokuya ngokuthatha ihlangothi labatloli abamhlophe. Ukuvalelwa ngaphandlekhu kwasetjenziswa ngokwepolitiki ukukhiqiza ngabutjha iinkolelo zokungekho ngobuhlanga. Iinkolelo zokungekhwezi zirhagala ngeendlela ezinengi ngaphakathi kweSewula Afrika yentanto yenengi.

Ukutjhatjhululwa kwengqondo esikweni lekholoniyalizimu

75. Nawutjheja ihlelo lakho lukuqinisekisa esikhathini esingaphezu kwamasantjhuri amathathu, imikhumbulo yobuhlanga seyaba yinjwayelo hlangana nabantu kanye nemiphakathini. Ukuragela phambili kokungalingani ngokobugwili kanye namazinga ahluahlukako wokufunyanwa kweensiza sitjhaba sobuhlanga obuhlukileko, begodu nomthelela wobujamo bobuhlanga, kusebenze ukuyaphambili ekugcinweni kwemibono yephasi ngobuhlanga kanye nendlela ekuqatjangwa ngayo. Nanyana kungavunywa ngokusebaleni, umbono kanye nekolelo yabantu yokuthi abantu abamhlophe baphezulu kuneminye imihlobo isesekhona ngokulinganako hlangana nabanye abantu abamhlophe nabanzima beSewula Afrika. Ukuqalelwa phasi kwabantu abanzima ngokomlando kungenelele emmoyeni walabo ekwaqinisekiswa kibo bonyana baphasi vele. Indlela yekambiso yeQiniso nokuBuyisana (“i-TRC”) isifundise bonyana ukuvunywa ngokweqiniso kwesikhathi esadlulako ngokufanako nokukakarela kikho, kodwana kwenzelwa ukuqinisekisa bonyana isikhathi esadlulako asibuyi sibe sipoko esizokutshwenya ikusasa.
76. ISewula Afrika imphakathi owahlukumezeke ngokungeneleleko begodu usaragela phambili nokuphila neenhlungu ezabangwa yikholoniyalizimu kanye nombuso webandlululo. Ngilokhu okusemikhumbulweni bonyana i-NAP iyavuma ngalabo ababa bongazimbi kanye nabaragela phambili nokuba bongazimbi bokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokungabekezelelekiko. Sikholelwa bonyana ngokuvuma ubuhlungu bomlandwethu, sizokubuthela imizamo yenarha ukwenzela ukusindisa ikusasa emthwalweni wobuhlanga besikhathi esadlulako.
77. Kufanele kwazakale nokobana ukutjhaphuluka ngokweqiniso ekuninweni ngokobuhlanga kuthoma ngengqondo. Ukugiriza kanye nokuvezela ebaleni ukungabi namrhula kweenkolelo zobuhlanga kufanele kube yingcenywe yamaqhinga aqatjangisisiweko wokuqeda ubuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezeleleko – emongweni womThethosisekelo.

Ukubumbana komphakathi

78. Igugu lokubandlulula ngokobuhlanga leSewula Afrika liragela phambili nokuhlathulula ubudlelwano kanye nokubambisana emiphakathinethu nanamhlanjesi. Ngebanga lalokhu, ukubumbana komphakathi kufanele kube sekabeni yokutjhugululwa kwemiphakathi. Ukubumbana komphakathi kujamela ukuphambana nokuvalelwa ngaphandle kanye nokuhlukaniswa, begodu kuqukethe umoya wokungakhethululi ekufanele ube mhlahlandlela wemizamo yenarha ehloselwe ukwakha umphakathi omutjha. Okuqakathekileko ngendlela yekambiso le kukhuthazwa kokuzizwa wamukelekile kanye nokugidingwa kokuhlukahluka

hlangana kwabo boke abahlali beSewula Afrika. Lokhu kufaka hlangana ukuqinisekiswa ngabutjhakwegugu eloniweko labantu be-Afrika. Ukwakha iSewula Afrika ebumbeneko, engabandlululi ngokobulili kanye neyentando yenengi kusese mnqopho othathelwa phezu lenarha.

Ukukhuluma nomphakathi

79. Ukukhuluma nomphakathi eSewula Afrika kubanjwa khulu ngokusebenzisa imidiya ekulu ekarisako kanye nelulaula. Imidiya iyindlela eqakatheke khulu ekudluliseleni imibono kanye nemilayezo mayelana nokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okhukhambelana nakho okungabekezelekiko. Imidiya ingasetjenziswa ngeendlela ezihle kanye nangezimbi ukukhuthaza ukungabandlululanwa ngokobuhlanga kanye nokulwisana nokuninwa ngokobuhlanga okungabekezelekiko njengokuphambene nemibono ekhozela ubuhlanga. Ngokomlando wekhloniyalizimu kanye nombuso webandlululo kwasenziswa amanye amamidiya ukwenzela ukuthuwelelisa ubuhlanga. Ngaphakathi kweSewula Afrika yanamhlanjesi, ikulumo yenarha ngendima yemidiya kanye nokubikwa kwemiraro ephathelene nobuhlanga kanye nokuzondwa kwamaphandle kufanele igcinwe njalo ingathikamezeki ukwenzela bonyana inarhethu ihlale yazi ngokobana ingaqalana njani ngemiraro leyo begodu kunesidingo esikhethekileko sokutjhejwa kwendima yeenkundla zokuthintana.

Ukuzondwa kwamaphandle

80. Ukuzondwa kwamaphandle kukusaba okungazwisisakaliko, ukungathembi, nofana izondo yabantu abangaziwako, amaphandle, nofana nanyana ngikuphi okuthathwa njekokuliphandle nofana okuhlukileko kanengi ngokuya ngeenzathu ezingazwakaliko kanye neenkolelo zokungekho. Kungazibonakalisa ngeendlela ezinengi enarheni. Isibonelo, kungaba ngokuhlukunyezwa kwabongazimbi ngokobutjhaba nofana indlela abaqaleka ngayo, ukusahlelwa kabuhlungu, ukubulawa, ukuhlanzwa ngokobuhlanga endaweni ethileko, kanye nokukhutjiswa ngobunengi enarheni.
81. ISewula Afrika, esikhathini esadlulako begodu namuva nje, izithole ihlangabezana nokurhatjheka kanye nemihlobo yemiguruguru yokuzondwa kwamaphandle erholele ekuhlongakaleni kanye nekulimaleni kwabantu kanye nokutapela eentolo kanye nokoniwa kwepahla. Ukuzondwa kwamaphandle kwethula isitjhijilo esikhulu naziza ekuvikelweni kwamalungelo wobuntu. Kuqakathekile bonyana urhulumende, umphakathi, nabavakatjhi kanye nemiphakathi yekhaya begodu nabarholi bemiphakathi ekufaka hlangana abarholi beendabuko ukuthi balwisane nesehlakalwesi. Iindlela ezitjha ezingasetjenziswa ekulwisaneni nokuzondwa kwamaphandle zifaka hlangana ukubunjwa kanye nokuhlatjwa kwezenzo ezikhozelwa miguruguru enokubandlulula ngasosoke isikhathi nayenzekako, kumphasiswe imithetho yobulele behloyo, ukuqiniswa kwesandla somthetho, kanye nokutjhutjhiswa kwabaphulimthetho.
82. Kuqakathekile bonyana kubekwe ilihlo begodu kubikwe ngokusahlelwa kanye nokukhambela imiphakathi ethintwe miguruguru ukwenzela ukuphungula ivalo, ukusiza abongazimbi, kanye

nokuthuthukiswa ukubikwa kwezehlakalo. Kuqakatheke ngokulinganako bonyana kukhuthazwe umoya wokubambana ngokukhulumisana nemiphakathi lapho ukuzondwa kwamaphandle kurhagele khona. Aborhulumende kufanele bathumele umlayezo onqophileko bonyana umguruguru wokulwisana namaphandle kanye nokusahlelwa kwamaphandle bonyana angekhe kwabekezelelwa begodu labo ababandakanyekako ezenzwenezo bazakutjhutjhiswa.

Ukubandlulula ngokwemvelaphi yobuhlobo

83. Ngokusebenzisa umgomolawulo wokuhlukanisa kanye nomthetho, begodu nangesikhathi sebandlululo, abantu abanzima begade bavaleleke ezabelweni kanye nemalokitjhini, nebegade ahlukiselwe ukugcina imikhawulo yamanzi ekungasiyo yamambala eyakhiwe hlangana nabantu abanzima ngokuya ngokobulunga bobuhlobo besiqhema esithileko. Kungasikade, ukukhonjwa kobunjalo bomuntu besele kungenelele khulu kezinye iingceny zemiphakathi yama-Afrika. Njengombana isikhathi sebandlululo sahlulwa nje, iSewula Afrika izokuhlala iyelele ngokulwisana nelifa lokubandlululana ngokwenzathu zemvelaphi yobuhlobo. UmThethosisekelo undlala iizathu zokwakhiwa komphakathi lapho ukuthatjelwa kokuhlukahluka ngokwesiko kudlala indima ekwakhiweni Sewula Afrika yebumbano.
84. Nokho, “ukuninanwa ngokobutjhaba” kusesekhona – kuneembonelo ezinengi.³² Obegade anguMengameli uMbeki uhlathulula “ukuninanwa ngokobutjhaba” njengesitjhijilo seSewula Afrika begodu njengento engunobangela wokuthuwelelwa kobukhohlakali, njengombana begade “kusisetjenziwa ebesistjenziwa bosopolotiki ukusebenzisa abanye ukwenzela ukuhlomulisa abanye”.³³

Ukubandlulwa kanye nokuhlukunyezwa ngokobulili

85. Ngokomlando, begade kunethungelelwano phakathi kokubandlululwa ngokobuhlanga kanye nangokobulili. Ithungelelwaneli begade likhozelwa zizenzo zokungalingani kwamadoda nabafazi ngokobulili ebegade kwakha woke amasiko enarhenethu. Imikghwa yangokwamasiko le ikhuthaza ukwakhiwa kobukhulu bobudoda ekwakhiwe ngehloso mayelana nokuqalelwa phasi kobufazi. Kuliqiniso ngokulinganako bonyana isikhundla esiphasi sabafazi emiphakathinethu simthelela omkhulu wokubuswa ngebeentjhaba kanye nombuso webandlulo wesikhathi esadlulako. Ngaphasi kwesikhathi sebandlululo, inengi labafazi eSewula Afrika bebaqalene nokugandelelwa okubuyelelwe kathathu ngokobulili, ubujamo kanye nobuhlanga.
86. Abafazi kanye nabentwana basese siqhema esisadinga itjhejo emphakathini. Hlangana nokhunye, amalungelwabo kanengi aphulwa ngenturhu yangekhaya, ngokukhukhuthiswa,

³² For example, an unnamed man was quoted as referring to protests in Tshwane following the ANC’s decision to name Thoko Didiza as its mayoral candidate for the then upcoming municipal elections. He was quoted as saying: “The ANC cannot bring a Zulu person from KwaZulu-Natal to rule Pedis, Xitsongas and TshiVendas. If you are saying that she [Didiza] is from Pretoria, then tell us where in Pretoria she is from.” (<https://www.thesouthafrican.com/racism-and-tribalism-still-engraved-in-most-south-africans/>)

³³ Keynote address on the opening of UNISA’s College of Human Science (CHS), January 2014

ukudlengulwa kanye nokusetjenzisa kwabentwana. Koke lokhu kunomthelela omumbi etjhatjhuphulukweni yabafazi kanye nehlala kuhle yabentwana. Kuliqiniso mayelana neSewula Afrika bonyana ukuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okhukhambelana nakho okungabekezelelekiko kuzibonakalisa khulu ngeendlela ezuhlukahlukene begodu kuba kumbi ngokudluleleko ebafazini kanye nebentwaneni. Lokhu kufaka hlangana ukurhagala ngokuya phambili kobujamo beendawo ebahlala kizo, ubuchaka, inturhu kanye nezinye iindlela ezinengi zokubandlululana.

87. Ngaphasi kwesikhathi sebandlululo, abafazi abababantu abanzima eSewula Afrika begade baqalene nokugandelelwa okubuyelelwe kathathu, ekungokobulili, ngokobujamo kanye nobuhlanga. Ubunjalo besakhiwo sesikhathi sebandlululo saba nomthelela omkhulu emaphilweni wabafazi abababantu abanzima. Ukugandelelwa ngokobulili kanengi kuvezwa ngehlanganyela yekambiso yehlala kuhle namasiko begodu nemibono yoke esekelwe begodu beyathuwelelwa yikolelongqondo eqalela abafazi phasi.
88. Inengi labafazi abababantu abanzima abatlhagako ukurhagala kwekambiso enina abafazokhu kuhlathulule ukuphila ngaphandle kwemikhawulo: ngokomnotho, ngokwepolotiki kanye nangokuphathelene nomsebenzi. Inengi labafazi abababantu abanzima basunduzelwa emisebenzi engadingi amakghono, imisebenzi ebhadala kancani njengabasebenzi bemakhaya nofana emafekthrini.
89. IsiVumelwano sokuQedwa kwayo yoke imihlobo yokubandlululwa kwabafazi (i-CEDAW) esiphethweni setjhelo layo iveze bonyana ilifa lombuso webandlululo ebafazini lifake hlangana *“ukurhatjheka khulu kwebandlululo kanye nokungathuthuki, begodu kubonakala neendaweni ezifana nezezinga eliphezulu lokungasebenzi kwabafazi, ukungakghoni ukufunda nokutlola kanye nobuchaka begodu neendaweni zokuhlukunyezwa kwabafazi”*. Kungebangelo, kuqakathekile bonyana iindingo kanye neenrhuluphelp zabafazi ziphiwa ukubekelwa phambili emazingeni womabili wenarha kanye nangaphakathi ebujameni bemiphakathi kanye nemakhaya, ukwenzela ukutholakala kokulingana.
90. Ngomnyaka we-2015, i-UN General Assembly yaphasisa isiqunto sokwamukela kwe-2030 *Agenda for Sustainable Development*.³⁴ I-*The 17 Sustainable Development Goals* kanye neminqopho ema-169 ijamele ihloso yokukhuthaza igadango leminyaka eli-15 esezako eendaweni eziqakatheke khulu zobantu kanye neplanethi. Ngokunqophileko, umnqopho wesihlanu kuphumelelisa ukulingana ngokobulili kanye nokupha boke abafazi kanye nabentazana amandla, ngokukhambisana neminqopho: (a) Ukuqedwa kwayo yoke imihlobo yokubandlululwa kwabafazi kanye nabentazana kizo zoke iindawo; (b) Ukuqedwa kwayo yoke imihlobo yokuhlukunyezwa kibo boke abafazi kanye nabentazana emazingeni wombuso kanye newangeqadi, ekufaka hlangana ukukhukhuthiswa kanye nokudlengulwa begodu neminye imihlobo yokusetjenziswa; (c) Ukuqedwa kwazo zoke izenzo ezinobungozi, ezifana

³⁴ UN General Assembly, Transforming our world: the 2030 Agenda for Sustainable Development, 21 October 2015, A/RES/70/1.

nokutjhadiswa komntwana kanye nokukatelelwa komtjhado begodu nokusikwa kwesitho sangasese somsikazi.³⁵

91. Ukuzibophelela kweSewula Afrika ekuqedeni ukuninwa ngokobuhlanga, ukugandelelwa kanye nokusetjenziswa kwabantu ngokungekho emthethweni emiphakathinethu angekhe kwabhalelwa nakulungisa umraro wokungalingani ngokobulili. Ilemuko leminyane imiphakathi likhombise bonyana ukulingana ngokobulili akusi miphumela yokulwela intando yenengi nofana itjhuphuluko yenarha. Kufanele kulungiswe wona siqu sawo. Ukufeza ukulingana kwamambala, imigomolawulo kufanele idzimelele khulu phezu kokuzwisiseni ngokweqiniso ukudliselwana kwezenzo zekambiso enina abafazi ezirhageleko kanye nendlela ezibonakalisa ngayo emiphakathini.
92. Ukulingana ngokobulili kuqakathekile ngokomthethosisekelo eSewula Afrika. UmThethosisekelo uzimisele ukuphumelelisa ukulingana phakathi kwabafazi kanye namadoda ngokukhandela ukuninwa kwangokobuhlanga, ubulili, kanye nayo yoke imihlobo yokubandlulula. Ukuvumokhu kuqiniseke ngokusekelwa khulu mThethosisekelo begodu kubonakala nangaphakathi kwemithetho eminengi, imigomolawulo, amahlelo kanye nemisebenzi. Isigunyazo somthethosisekelo phezu kokulingana ngokobulili siqaqile begodu nendlela yekambiso yomthetho kuqalelela ukwakhiwa kwemithangala yomphakathi enokulingana ngokobulili.
93. Okutshwenyako kukobana bafazi abangaphasi kwama-50% abanelwazi ngomThethosisekelo. Irhubhululo litjengisa bonyana ngokuphathele nelwazi elivamileko mayelana nomThethosisekelo, amazinga welwazi begade afana kibo boke abaphenduli bemibuzo abamadoda kanye nabafazi. Kuthi ama-37% wamadoda aphenyule imibuzo, akhombise amazinga apha welwazi, lokhu begade kuliqiniso ngama-40% wabafazi abaphendule imibuzo. Ngakelinye ihlangothi lesikali, ama-36% wamadoda aphenyule imibuzo begade amazinga aphezulu welwazi lomthethosisekelo kanye nama-32% wabafazi abaphendule imibuzo.³⁶
94. ISewula Afrika ngenye yeenarha ezinamazinga aphezulu khulu wokuhlukunyezwa kwabafazi ephasini zombebele, kuthi ukuhlukunyezwa ngokobulili kanye nangokobulili obuthileko ozibandakanya kibo nofana indlela yokuziveza ngokobulili kube ngikho okurhatjheke khulu begodu nekuyinto eyenziwa ibe yinjwayelo kanye nekungabikwako khulu ngayo. Ngenyanga kaRhoboyi 2018, ijima le-*#TheTotalShutdown* – ekulijima labafazi (ekufaka phakathi abafazi bobulili obuthathwa njengobujwayelekileko kanye nalabo bobulili obuhlukileko kunendlela abangayo) begodu nabantu abangazibandakanyiko ekukhethweni kobulili – bathule imemorandamu kuRhulumente endlala bonyana ukuhlukunyezwa ngokobulili kwabafazini, abafazi abangazibandakanyiko ekukhethweni kobulili kanye nabafazi abalwela amalungelo wangokobulili kufinyelela emazingeni angamukelekileko begodu kubanga ubungozi okungakhulunywa ngabo begodu nokuthi ngaphandle kwegadango lokungenelela ngokuzeleko kwayo yoke imikhakha yomphakathi kanye nehlangothi yepolitiki, akukho okuzakutjhuguluka ukwenzela ukuqeda ubudisobu. Imemorandamu indlela irhelo leemfuno zokuthoma ezimatjhumi amabili nane ukwenzela bonyana abafazi kanye nabantu abazibandakanyiko ekukhethweni kobulili nabo bathole ilungelo letjhaphuluko

³⁵ National Strategic Plan on Gender-based Violence Shadow Framework (Stop Gender Violence Campaign), 2017, page 22

³⁶ The Foundation for Human Rights' Socio-Economic Justice for All" (SEJA) Baseline Survey, 2017

ekuhlukunyezweni. Okulandela lokhu begodu nokumphumela womtjhagalo we-*#TheTotalShutdown*, kwabanjwe iSamidi yakaMengameli ngomhlaka 1-2 kuSinyikhaba 2018, nekuyisamidi eyamukela isiMemezelo sokuLwisana nokuHlukunyezwa ngokoBulili kanye nokuBulawa kwabafazi balingani babo.

Ukukhandela ukubandlululwa kanye nokuzindlekelwa kwabantu be-LGBTI

95. Akusolakali bonyana kusese nokuhlukunyezwa kanye nokubandlululwa ngeenzathu zokuzibandakanya ebulilini obuthileko nofana ukuziveza ngendlela ongayo. Isitjhijilo sisekutjhugululweni kwendlela imiphakathi ibona ngayo izinto, ukwenzela ukuqinisekisa bonyana abantu ababi bongazimbi bokuhlukunyezwa nofana ukubandlululwa qobe malanga wepilwabo ngeenzathu zokuzibandakanya nobulili obuthileko, ubunjalo bobobulili babo kanye nokuziveza ngendlela ungayo.
96. Ihlolombono emayelana nendlela ekuthathwa ngayo izinto ephathelene nobutabana kanye nokungazibandakanyi ekukhethweni kobulili eSewula Afrika, evezwe yi-*The Other Foundation* kanye nomKhandlu weRhubhululo eliphathelene neSayensi yaBantu ifunyane bonyana ama-55% wamaSewula Afrika akhombise bonyana azokwamukela ilunga lomndeni elisitabana esiduna, kodwana ama-27% kwaphela banomngani nofana ilunga lomndeni ebamaziko bonyana usitabana; ama-51% bakholelwa bonyana abantu abaziintabana eziduna banamalungelo wobuntu afanako newabanye abantu, nanyana ama-72% ajame embonweni wokobana izezo zokuzibandakanya nobulili obufakano “kuziphatha okungakalungi”. Ifunyane nokobana phakathi kweminyaka wee-2012 kanye newee-2015, kwaba nokukhula okubuyelelwe amahlandla alitjhumu kwesibalo samaSewula Afrika “abavumelana ngokwaneleko” ngokuvunyelwa komtjhado wabantu bobulili obufanako. Abantu ababunane kebalitjhumu bathe abakavumi – begodu angekhe bebacabange nokuthoma – ukuhlukumeza ngamezwi nofana ngokomzimba umuntu ongazibandakanyiko ekukhethweni kobulili.
97. Irhubhululo lamuva nje elenziwa yiFawundetjheni yamaLungelo woBuntu (“i-FHR”) litshwaye bonyana i ubunengi bengeengcenywe ezimbili kezithathu (i-68%) yabo boke abaphendule imibuzo bavumile nofana bavume ngokwaneleko bonyana abantu eSewula Afrika benetjhaphuluko yokukhetha kanye nokuveza ukuzibandakanya kwabo ebulilini obuthileko ngaphandle kokusaba nofana ukwehlulelwa. Pheze amakotara amathathu (i-74%) yabaphendule imibuzo balandulile nofana balandule ngokwaneleko bonyana ukuba sitabana esiduna nofana isitabana esisikazi kuphambene neenkambisokolelo zemiphakathabo. Umphumela lo begade ungatjhuguluki kiwo woke ama-*Indian/Asian* (i-72%), ama-Afrika ababantu abanzima (i-73%), abantu abamhlophe (i-77%) kanye nabantu abama-*coloured* (i-77%) abaphendule imibuzo begodu namadoda (ama-73%) kanye nabafazi (abama-74%) baphendule imibuzo.³⁷

Umkhumbulo wabongazimbi kanye nokuBuyisana nokuLatjhwa kweNarha

³⁷ Socio-Economic Justice for All (SEJA) Baseline Survey, FHR, 2017

98. Ikhloniyalizimu kanye nombuso webandlululo begade kumigomolawulo ebandlululako ebandakanya abathuwelelisi kanye nabongazimbi. Iqiniso elingaphikisekikweli kwakufanele livunywe ukwenzela bonyana inarhethu iphole begodu yenze ituthuko. I-TRC yaphakamisa bonyana urhulumende kufanele asekele amahlelo wamatshwayo wokulungiswa ukwenzela ukubuyiswa kobuntu kanye nesithunzi somphakathi begodu avumele labo abasindako bonyana bafike ebujameni bokwamukela isikhathi esadlulako. I-TRC ukuya phambili iphakamise nokobana umphakathi kufanele ukhumbule abongazimbi bekhloniyalizimu kanye nombuso webandlululo ngokusebenzisa amalanga asikhumbuzo, ukwakhiwa kweenkhumbuzo zomphakathi emazingeni wenarha, wesiyingi kanye nakumasipala, begodu nokuthiyelwa kweendawo zomphakathi ngamagama wabongazimbi. Kunesidingo sokuqinisekisa bonyana abongazimbi nombuso webandlululo baqinisekisiwe epilweni yomphakathi.
99. I-TRC ekugcineni kwegunya layo idlulise irhelo lamacala ama-300 eBandleni lezokuTjhutjhiswa leLizwe ngomnqopho wokobana lilandelele ukuya phambili ngamaphenyo kanye nokutjhutjhiswa. Nangaphandle kwegandelelo phezu kwe-NPA ngomnyaka wee-2004 begade kukhanya bonyana i-NPA ayifuni ukulandelela amacala la. *I-Promotion of National Unity and Reconciliation Act, 1995*³⁸ iqalelele bonyana nangabe ukulibalela kwaliwe nofana akukafakwa isibawo sakho nofana kungakaphiwa, umthetho kufanele ulandele indawawo phezu kwabathuwelelisi abathinteka ekuphukweni komthetho okutjhutjhiswako ngakho.
100. Ukufunyanwa ngobutjha kweqiniso, khulukhulu emibuzweni yamaziko kanye neyamahlelo, kuyavunywa begodu kutjhejiwe namhlanjesi eendaweni zokudluliswa kobulungiswa njengombana kuqakathekile ukulungisa ukuthatha ihlangothi kwesikhathi sebandlululo ukwenzela ukuqinisekisa bonyana akubi mlendo kwaphela okhombisa ngefanelo umbuso wokuphalaka kwegazi ewavunyelwa mapholisa weGatja lezokuVikela ngokuveza izimo zokutlhoga ubuntu zokuvallelwa kanye nokuzwiswa ubuhlungu nokuhlongakala kwababanjwa lokha nebegade bavaalelwe mapholisa, kodwana nokuqinisekisa bonyana labo abanesandla baba nokuziphendulela, ngokuthi kuthunyelwe umlayezo ngaphakathi kweSewula Afrika etja bonyana ukuzwisa ubuhlungu kanye nokulinyazwa mapholisa angekhe kwabekezelelwa.
101. Emphakathini ovulekileko kanye newentando yenengi ofana newethu, abathuwelelisi angekhe bavunyelwa bonyana bagadangele iqiniso begodu ngokwenza kunjalo kusilaphaza umlandwethu ngeenqunjwana zamaqiniso ezingekhe zasiza ukupholisa umphakathi.
102. Umuntu ngamunye kanye nawo woke umphakathi unelungelo engekhe athathelwa lona lokwazi iqiniso mayelana nesikhathi esadlulako. Ngokomphumela wokutjhugulula ngehloso kanye nokubamba ilwazi ku-TRC, inengi labathuwelelisi bokuphulwa kwamalungelo wobuntu basindile ekuphenyweni kanye nekuziphenduleleni ngezenzo zabo. Abasindako kanye nemindeni yalabo abahlongakalela ekuvallelweni badinga ukwazi iqiniso lokuthi iinthandwa zabo zazwiswa njani ubuhlungu kanye nokubulawa kwazo ukwenzela bonyana bakghone ukudlulisa okwenzakalako. Iqiniso kufanele ligadangiswe – lingagadangiswa bathuwelelisi kodwana ligadangiswe bongazimbi.

³⁸ UmThetho weNomboro 34 we-1995

103. Kusibopho kumaSewula Afrika kizo zoke iindawo bonyana abandakanyeke emahlelweni ekuhloswe ngawo ukuqedwa kwawo woke kwamafa asesekhona amambi wombuso wesikhathi sebandlululo kanye nokubandlululwa kwethu kwangesikhathi esadlulako. Kuqakatheke khulu ngebangelo bonyana urhulumende, imikhakha yamabubulo, ihlangano yabasebenzi, kanye neenhlango zezekolo bona zenze imihlahlandlelazo yepumelelo (amatshwayo) wokulinganisa ipumelelwazo ekuqedeni woke ameva wobuhlanga kanye nokuphumelelisa ukwakhiwa kwenarha kanye nokubumbana komphakathi okufanelekileko.
104. Ukuninwa ngokobuhlangana okuhlelekileko nokudluliselweneko kufanele umphakathi uqalane nakho ngemehlweni ngombana nakungasi njalo kuzakuvuseleleka begodu kuziphe amandla kizo zoke iinzukulwana. Kumumoya odluliselweneko lo wokuzindlekelwa ngokobuhlanga, ukuphulwa kweenkambisokolelo, ukungalingani ngokwamathuba kanye nomtlhago omkhulu, begodu nokulwela ukutlhayela kweensetjenziswa, nekungikho ekusiza ukukhozela ukuninwa ngokobuhlanga kanye, nekwamuva nje, ukuzondwa kwamaphandle. Ukubandlulwa ngeenzathu zokuzibandakanya nobulili obuthileko nofana ukuziveza ngendlela ongayo kanye nokuzindlekelwa ngokobulili nakho kumraro omkhulu. Okunengi kusatlhogeka bona kwenziwe ukwenzela ukuvikela amalungelo wangokomthethosisekelo kanye nasemthethweni wedlanzana lobulili. Ukungalingani kanye nokubandlulwa kusesekhona. Kukuphikisana neqinisiweli bonyana i-NAP iyadingeka.

Umsebenzi

105. IKomitjhini yokuQatjhwa ngokuLinganako embikwenayo wamuva nje³⁹ itshwaye bonyana ukujameleka kwesitjhaba sesiqhema sabantu abamHlophe singaphezu ngokubuyelelwe ngamahlandla asithandathu kune-EAP yabo begodu isitjhaba sama-*Indian* singaphezu ngokubuyelelwe ngamahlandla amathathu we-EAP yabo emazingeni wezokuPhatha aPhezulu. Ukhombise nokujameleka sesitjhaba sabantu abama-Afrika bonyana pheze munye kwabahlanu begodu kuthi isitjhaba sama-*Coloured* pheze sisiquntu se-EAP yaso emazingeni wemisebenzi.
106. **Ihlelo lesi-3** elingaphasi likhombisa ukujameleka kweenqhema ezikhonjiweko emazingeni ahlukileko wezemisebenzi phakathi komnyaka wee-2001 kanye newee-2017.⁴⁰

³⁹ 2017/18

⁴⁰ "Designated groups" mean black people, women and people with disabilities who:

- (a) Are citizens of the Republic of South Africa by birth or descent; or
- (b) became citizens of the Republic of South Africa by naturalisation—
 - (i) Before 27 April 1994; or
 - (ii) After 26 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date but who were precluded by apartheid policies

OCCUPATIONAL LEVEL	PERIOD	WHITE	AFRICAN	COLOURED	INDIAN	MALE	FEMALE
Top Management	2001	87%	6%	3%	4%	87%	13%
	2017	67%	14.3%	5.1%	9.4%	77.1%	22.9%
Senior Management	2001	81%	9%	5%	5%	80%	20%
	2017	56.1%	22.1%	7.7%	10.9%	66.2%	38.8%
Professionally Qualified	2001	56%	33%	6%	5%	62%	38%
	2017	36.5%	42.2%	9.6%	8.8%	53.4%	46.6%
Technical Skilled	2001	18%	58%	18%	6%	60%	40%
	2017	19.6%	61.7%	11.3%	5.6%	52.9%	47.1%

107. Ngokutjheja ihlelo elingehleli, kunobufakazi bonyana ukulingana ngokomsebenzi kutlhoga ukunakwa okuragela phambili. Kusese nesidingo esikhulu zamagadango wokuqatjha ngokulingana eSewula Afrika.

Ukwabiwa komrholo

108. Ihlolombono yomRholo kanye neeNdleko (i-IES)⁴¹ yamuva nje ihlolisisa ukukhuphuka emrholweni ngokuya ngeenqhema zesitjhaba. Sibona ukukhuphuka okukhulu kwenzeka emakhayeni wabantu abangasi ngabamhlophe. Amakhaya aphethwe babantu abama-*Indian/Asian* akhombisa ukukhuphuka ngama-36,8% (kukhuphuka okuzii-R17 859). Amakhaya aphethwe babantu abama-*coloured* akhombise ukukhuphuka komrholo okuma-27,7% (okukhuphuka okuzii-R30 152), kuthi amakhaya aphethwe babantu abamhlophe akhombise ukukhuphuka komrholo wamambala okuli-0,4% nofana okulinganiselwa e-R1 412 ngaphezulu.
109. Nanyana kunjalo, nangaphandle kokukhula okuhlokhu emrholweni emakhayeni wabantu abangasi ngabamhlophe, kusese nesikhala esikhulu phakathi kweenqhema zesitjhaba. Amakhaya aphethwe babantu abamhlophe ngesilinganiso arhola amahlandla abuyelelwe ngaphezu kwama-5.5 womrholo ukudlula wesilinganiso samakhaya aphethwe babantu abanzi abama-Afrika. Njengombana ukukhula komrholo kukhombisa amatshwayo amahle nje, ukungalingana kusese sitjhijilo esikhulu senarha. Nanyana kukuncani, amakhaya aphethwe madoda abathola ukukhula okukhulu komrholo ukudlula amakhaya aphethwe bafazi. Nanyana kunjalo, amakhaya amanengi aphethwe madoda, umrholo obikiweko wabo ufaka hlangana umyeni/umlingani osebenzako, nje-ke kuyakghonakala bonyana iinzuzo eyenziwe myeni/umlingani iphe amandla umrholo wekhaya sele uwoke. Nanyana amaSewula Afrika ukuya nokuya anjinga nje, ngokupheleleko kusese namazinga aphezulu khulu wokungalingani eentjhabeni kanye naphakathi kwazo.

Ihlelo lesi-4

⁴¹ Income and Expenditure Survey 2010/11, Statistics SA

	IES 2010/11 (R)	IES 2005/06 (R)	Real Growth	Increase in Rand terms
South Africa	119 542	102 401	16.7%	17 141
<i>Sex of household head</i>				
Male	151 186	127 914	18.2%	23 272
Female	70 830	62 397	13.5%	8 433
<i>Population group of household head</i>				
Black African	69 632	51 773	34.5%	17 859
Coloured	139 190	109 038	27.7%	30 152
Indian/Asian	252 724	184 711	36.8%	68 013
White	387 011	385 599	0.4%	1 412

110. linomborwezi zitjengisa ubudlelwano obukhulu phakathi kobuhlanga kanye nobujamo, khulukhulu ngokudinywa kwezinto eziphathekako. AmaSewula Afrika wabantu abanzima ngibo benengi labantu abadinywe izinto eziphathekako eSewula Afrika, nekuliqiniso elithusako lokukuthi abantu abamhlophe beSewula Afrika abangahlangabezani nalo. Lokhu kuyingcenywe yelifa elidluliselelenwe amasentjhuri wekholoniyalizimu layokuphelela ngaphakathi kwehlelo lesikhathi sebandlululo, elakhulisa ngokulinganako ubudlelwano obuphakathi kokubandlululwa ngokobuhlanga kanye nokungalingani ngokweengaba. Ukudluliselwanokhu kuragela phambili nokuphila nanamhlanjesi.⁴²

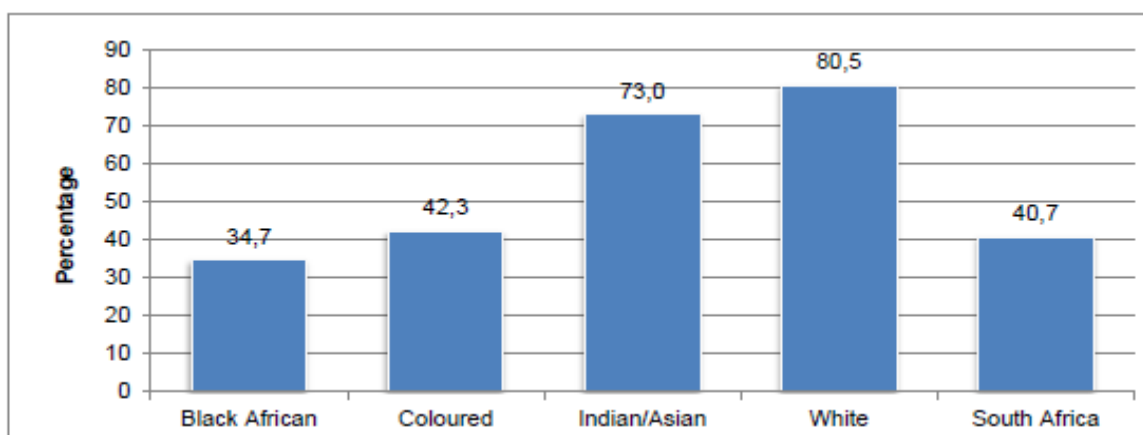
Izindlu

111. Imiphumela evela kuHlolombono yamaKhaya Zombe, 2017⁴³ ephathelene namaphesende wezakhiwo zamakhaya ezineenkumba ezisithandathu nofana ngaphezulu ngokuya ngesiqhema sesitjhaba esitjengiswe **eHlelweni lesi-5** ngenzasi. Inani leenkumba lifaka hlangana zoke iinkumba zekhaya (okufaka hlangana indlwana kanye neenkumba zokuhlambela). Umbuzo lo ukhombisa amazinga wokuphila emakhaya begodu angahlanganiswa nezinye izakhi ezifana nefundo nofana ubujamo bobugwili obucatjangelweko. Amakhaya aphethwe babantu abamhlophe (80,5%) kanye namakhaya aphethwe babantu abama-Indian/Asian (73,0%) begade asebujameni bokungaphila ezakhiweni ezineenkumba ezisithandathu nofana ngaphezulu ukudlula amakhaya aphethwe babantu abama-coloured (42,3%) nofana amakhaya aphethwe babantu abanzima abama-Afrika (34,7%).

Ihlelo lesi-5

⁴² Reconciliation Barometer, IJR, 2013

⁴³ Undertaken annually by Statistics SA



Ukukhubazeka

112. Iphasi loke, abantu abaphila nokukhubazeka baphathwa njengabangakaqakatheki begodu bavalelwa nangaphandle ekuzibandakanyeni ngokuzeleko emphaphakathini. Ngokuya ngerhubhululo le-SAHRC, eSewula Afrika, abantu abaphila nokukhubazeka baqalene nimihlobo eminengi yokubandlululwa eengabeni ezihlukahlukileko zokuphila, ekufaka hlangana nokuphathelele nokufunyanisa itjhejo lezokwelatjhwa, imisebenzi kanye nefundo.⁴⁴ Ngaphandle kokuzibophelela ekubandakanyeni ngokwaneleko kanye nokungavalelwa ngaphandle kwabantu abaphila nokukhubazeka emiphakathini, ukulingana okusisekelo angekhe kwaphunyelelwa.
113. Ngomnyaka we-2011 imiphumelam yokubalwa kwabantu yakhombisa izinga lokurhatjheka kokukhubazeka enarheni okuli-7,5%. Ukuhluka ngeemfunda kukhombisa bonyana isifunda se-*Free State* kanye neseTlhwagwini Kapa begade zinesilinganiso esiphezulu sabantu abaphila nokukhubazeka (nge-11%), zilandelwa isifunda seTlhwagwini Tjhingalanga kanye nePumalanga Kapa (nge-10% kanye ne-9,6% ngokulandelayo kwazo). Isifunda seTjhingalanga Kapa kanye nese-*Gauteng* zakhombisa amaphesende aphasi khulu wabantu abaphila nokukhubazeka (ngama-5%). Iphrofayili yesiqhema senani lesitjhaba ikhombisa bonyana abantu abanzima abama-Afrika begade benesilinganiso esiphezulu sabantu abaphila nokukhubazeka (nge-7,8%), esilandelayo sitjhaba sabantu abamhlophe (nge-6,5%).
114. ISewula Afrika itlikile beyavumela i-CRPD kanye ne-*Optional Protocol* yayo yangomnyaka we-2007, begodu ikatelelele ngaphasi kwesivumelwanwesi bonyana ifeze isibopho sayo ngokuphumelelela kanye nokupha umbiko. ISewula Afrika isazokwamukela iinqalelelo ze-CRPD bonyana zisebenze nenarheni yekhethwapha.

Ubuswephe

115. Ukubandlulwa ngokobuswephe kufumene ukunankwa okungakaneli kuhle ebumeni bomthetho weSewula Afrika. Lokho kungombana abantu abaphila nobuswephe balidlanzana

⁴⁴ South African Human Rights Commission, Research Brief on Disability and Equality in South Africa 2013 - 2017

begodu baphathwa njengabakaqakatheki emphakathini, ukubandlululwa kwabokhu kuqalelwa phasi begodua akubikwa ngakho. Amafektha ahlukahlukeneke wezehlalakuhle kanye nezengqondo zipha umbala wesikhumba iinhlathululo yazo muva nje.⁴⁵ Emlandwini we-Afrika, ukubandlululana ngokwesikhumba akusiyinto etja – ihlelo lelungelo elikhethekileko kanye nokuzindlekela lisuselwe ekukhanyeni nofana ekubeni nzima ngokombala lesikhumba somuntu begade lihlukaniseka ngokuthi ngemida efane nethi 'ukuzindlekelwa ngokombala wesikhumba esinzima', 'ukukhethululwa ngokombala wesikhumba', 'ukuthathelwa phezulu ngokombala wesikhumba' kanye 'ukuphathwa ngokungafaniko ngebanga lesikhumba'. Nanyana ngikuphu ukulebulwa ebekusetjenziselwa ukuhlathulula umbala wesikhumba somuntu kubangele iinkinga, begodu kungarholela ekubandlululweni, neenkolelweni zokungekho yobuhle, begodu nahlangana kwalabo bobuhlanga obufanako. Abantu abaphila nobuswephe, umbala wesikhumba sabo urholela ekwakhekeni komphakathi okungakalungi hlangana nama-Afrika, ekufaka hlangana iinkolelo zokobana baqalekisiwe.⁴⁶ Kuqakathekile ukutjheja bonyana ngenyanga kaSinyikhaba wee-2014, isiGungu Zombebele seeNarha eziBumbeneko samukela isiqunto esihloma umhlaka-13 wenyanga kwaMgwengweni, njengeLanga leenTjhabatjhaba loKwaziswa ngoBuswephe. Isiqunto esimlandwesi saqinisekisa umnqopho womhlaba wokusekela ubuswephe. UmNyango wezobuKghwari namaSiko wahloma ijima le-*#AlbinismActivismCampaign* ngomhlaka 4 kuMrhayili 2018.

⁴⁵ *Colour discrimination against persons with albinism in South Africa*, M Mswela & M Nöthling-Slabbert, Department of Jurisprudence, School of Law, University of South Africa, Pretoria, South Africa

⁴⁶ M Mswela & M Nöthling-Slabbert

ISAPHLUKO SESI-5: ISEWULA AFRIKA NAMHLANJE

116. Angekhe seqinisa amehlo ukungezwani ngokobuhlanga okusesekhona eSewula Afrika namhlanje. Njengombana uMondli Makhanya atlola:⁴⁷

“Asisiso isitjhaba seluju leso uBhitjhobo omncani kanye nomengameli wokuthoma weSewula Afrika “yetjhaphuluko abasifesela bonyana sibe ngiyo. Amadoda amakhulu amabili la asifesela bonyana sibe babantu abajamele iflarha.

Basifesela khulu bonyana sibe ngiso, bakholelwa nokobana sele sifikile lapho.

Ngokuzisola akunamsebenzi owaneleko osele wenzekile ekwakhiweni kwaloyo mphakathi onganakuninwa ngokobuhlanga, nokukukuthi kunanyana ngisiphi isimo begade kuzakuhlala kuthatha amatjumi weminyaka yemizamo ukufinyelela lapho

Sigidinga ipumelelo yomphakathi onganakuninwa ngokobuhlanga ngaphandle kokuthi siqalane neqiniso elisazibonakalisa lesikhathi sethu esadlulako kanye nokusebenza ngendlela yokulapha.

Njenga nje sibhadela intengo. Sibuyela ekuthomeni.”

117. IKhotho yomThethosisekelo ivume bonyana:

“Umphakathi weSewula Afrika wahlukahlukenegodu begode uhlukanisswe khulu isikhathi esimasentjhuri, khulukhulu ngemithetho kanye nemikghwa ezikhuthaze ihloyo nevalo. Amazizo asekele ihloyo kanye neenkolelo zokungekho ngababantu ngokwemibandela yokungatjhitjhileki kobunjalo babo kuyingozi ekuphunyelelisweni kweenkambisokolelwezi njengombana kuqinisa begodu kuthuwelelisa amaphetheni webandlululo kanye nokungalingani.”⁴⁸

118. Nokho, izehlakalo zekulumo enehloyo zandile eminyakeni yamuva nje, kuthi iimbonelo zamuva nje zokuninwa ngokobuhlanga, izehlakalo zobuhlanga, ukuzondwa kwamaphandle begodu/nofana ubulelesi behloyo bande khulu:

- Isibonelo, umfundo omumuntu onzima wajikiswa ekuzibandakanyeni emdlalweni wekutrayela ihokhi esifundeni seTlhagwini Tjhingalanga. Wakatelela ababelethi bakhe bonyana bamphekelele e-Hoërskool Grenswag ukwenzela ukuba yingcenywe amatrayali we- *Bokkie Week* ngemva ngokuphiwa imvumo mbandula. Koke kwabonakala kulungile lokha nakavunyelwa bonyana akatloliswe ngemva

⁴⁷ “Of cakes and race wars”, News24, 21 January 2018,

<https://www.news24.com/Columnists/Mondli-Makhanya/mondli-makhanya-of-cakes-and-race-wars-20180121-3>

⁴⁸ *Islamic Unity v Independent Broadcasting Authority and Others*, 2002 (4) SA 294 (CC) para 43.

kokukhupha isitifikedi sakhe sokubelethwa kanye nembadalo eyi-R30, kodwana kwatjhuguluka nakatjelwa bonyana i-*Bokkie Week* ngeyabentwana abamhlophe kwaphela.

- linqhonyoyilo mayelana nomfundisi e-*Parkdene Primary School* oselelwa ngecala lokuthu wahlukumeza umntwana owenza ibanga lesithathu ngonobangela wokuthi umbethe umhlobo wesetjhi ebovu ye-Hindu (i-*Kavlava*) emkhonwenakhe. Umfundisi wajanyiswa ngokusalindele iphenyo elenziwa mNyango wezeFundo siSekelo.
- Umhlali wenarheni ye-Mozambique wabulawa ngomnyaka we-20145 lokha nebegade athi ufuna imbadalwakhe yegwayi abesana abancani ababili ebegade balithethe esitodlwani sakhe ngesikhathi sokuqunga komguruguru wokulwasana namaphandle.
- NgoTjhirhweni 2017 isitjengiso sangokomlando i-*Town mosque, Nurul Islam* wambathwa ziingazi ebusweni begodu nepumulo yefarigi. Umphathayo kuthiwa wabiza amapholisa athumela imodora yamapholisa kodwana watjelwa bonyana akhenge kurhonakale bonyana bavule icala, kodwana bagadangisa kwaphela isehlakalo.
- Abantu batholakala banecala lokuthunaza ngokusabalalisa imibono enobuhlanga eenkundleni zokuthintana.
- Icala lokusahlelwa ngebhoksi lomgcwabo ngomnyaka wee-2017 lavusa iinkopha khulu, lapho indoda emumuntu onzima yafakwa ngaphakathi kwalo madoda amabili wabantu abamhlophe nebegade bezwakala emgadangisomsinyeko bathusela ukufaka inyoka ngaphakathi kwebhosi lomngcwabo bese balithungelela ngomlilo.
- Ecaleni (i- *Coligny Sunflower*) madoda amabili eplasini leThaggwini Tjhingalanga ebebasenze watholakala anomlando wokubulawa komntwana omumuntu onzima oneminyaka eli-16 ngokumusunduzela ngaphandle kweveni ekhambako ngemva kokumbamba eba enarheni yomqatjhake.
- Kube nenani lezehlakalo zokusahlelwa kwabantu abama-LGBTI, ngokubizwa “ngokukata okunehloyo phakathi” kwanda khulu.

119. IHLolombono yesiSetjenziswa sokuLinganisa ukuBuyisana ye-SA (“SARB”): *2017 Report*, eyenziwa liZiko lobuLungisa nokuBuyisana, upha ilwazi eliqakatheke khulu mayelana nobudlelwano bobuhlanga kanye nokubuyisana enarhenethu. Ngokuya nge-SARB, ngandlelana thize ngokurhamejako, abaphenduli bemibuzo ababe yingcenyehlolombono yomnyaka wee-2017 ye-SARB babona itjhuguluko elinomkhawulo emkhakheni ewakathekileko yomphakathi.

120. Ngaphakathi kwe-*SEJA Baseline Survey*⁴⁹ abaphenduli bemibuzo babawiwa bonyana batjheje bonyana bebacabanga bonyana umujamo eSewula Afrika buyalunga, buhlala ngendlela bungayo nofana buyarhagala ukuphambili. Pheze isiquntu (47%) sabaphenduli bemibuzo bebacabanga bonyana izito zirhagala ukuyaphambili, kuthi ikotara yabaphendulimbuzo icabanga bonyana izinto zihlala ngendlela ezingayo (27%) nofana zibangcono (26%). Njengombana begade kunganamehluko omkhulu kangakho ebaphendulimbuzo abaduna kanye nabasikazi, ukungafanokhu ngokobutjhaba begade kukarisa. Abathathu kabalitjhumu (29%) ama-Afrika abababantu abanzima begade bacabanga bonyana izinto zibangcono, njengombana kwenzekela bonyana ababili kabalitjhumu (22%) abaphendulimbuzo abababantu abamhlophe. Ama-*Indian/Asian* kanye namaKhaladi abaphendule imibuzo begade banganathemba ngomnqopho wenarha. Pheze two thirds (65%) yabaphendulimbuzo yamaKhaladi kanye nabathathu kwabahlanu (62%) yama-*Indian/Asiana* abaphendule imibuzo bebacanga bonyana izinto zirhagala ukuyaphambili – lokhu bekumkhanyo wesiquntu (53%) sabantu abamhlophe kanye nababili kwabahlanu (43%) babantu abama-Afrika anzima
121. Ngaphakathi kwehlombono efanako, ingcenywe eqakathekileko (44%) yavumelana bonyana amaphandle akufaneli avunyelwe eSewula Afrika. Pheze isiquntu sabo boke abantu abamhlophe (48%) kanye namaKhaladi (48%) abaphendule imibuzo bavumela ngokuthi amaphandle angavunyelwa enarheni kwathi nabantu abama-Afrika abanzima (43%) kanye nama- *Indians/Asians* (36%) bavumelana. Izinga eliphezulu khulu lokungathembi begade kubabantu abavela eenarheni – eenarheni ze-Afrika kanye nezingasizo ze-Afrika – kuqinisekisa imicabango ngamaphandle abikwe ngehla. Pheze ababili kwabahlanubabo boke abantu abadala eSewula Afrika begade bangathembi nakancani abantu ababuya eenarheni ze-Afrika (38%) nofana labo abavela eenarheni ezingasizo-zekude (39%)
122. Ngokuphathelene nelwazi ngomThethosisekelo, abaphendulimbuzo abamadoma bebangaphezu (55%) kwabafazi (47%) ebekhebezwa ngomThethosisekelo nofana umTlolo wamaLungelo woBuntu. Ngokuphathelene nabaphendulimbuzo ngobutjhaba, abantu abamhlophe begade balinganiselwa (68%) ebekhebezwa ngomThethosisekelo, ngokulandelwa ma-*Indian/Asian* abaphendule imibuzo (61%)
123. Njengombana inengi (56%) lamaKhaladi besele lizwile ngomThethosisekelo nofana umTlolo wamaLungelo woBuntu, ngaphasi kwesiquntu (48%) sabantu abama-Afrika abanzima abaphendule imibuzo besele bezwile ngayo. Abantu abasikaza abaphendule imibuzo begade babancani (44%) ekhebezwa ngomThethosisekelo nofana umTlolo wamaLungelo.

⁴⁹ 2017

ISAPHLUKO SESI-6 UKUQALANA NOKUNINWA NGOKOBUHLANGA NOKUBANDLULULA KANYE NOKUKHUTHAZA UKULINGANA – ESELE SIKWENZILEKO UKUFIKELA LA

124. Amagadango ahlukahlukene athethwe yiSewula Afrika ukwenzela ukuhlangabezana neembopho ezimbalwa zangokomthethosisekelo kanye nezamalungelo wobuntu andlalwe ngokunabileko njengengcenge yeembopho zesivumelwano seentjhabatjhaba seSewula Afrika sokupha umbiko. ISewula Afrika inephahla langokomthetho eliqine khulu lokulingana kanye nokungabandlululwa. UmThethosisekelo udinga bonyana iNarha ihloniphe, ivikele, ikhuthaze begodu ifezekise amalungelo angaphakathi komTlobo wamaLungelo woBuntu ngokuthi umBuso ube neembopho ezisisekelo zokuqinisekisa bonyana woke umuntu angakghona ukusebenzisa amalungelwakhe. Kileli hlangothi, uRhulumente weSewula Afrika uphasise inani lemithetho ukwenzela ukusiza ukusebenza kweminqophakhe yengokomthethosisekelo yokuphumelelisa ukulingana, isithunzi sobuntu kanye nokuthuthukisa amalungelo wobuntu kanye netjhaphuluko.

Ukulingana kanye nokulwisana nebandlululo

125. Ilungelo lokulingana kanye nelokuvikeleka ekubandlululweni litjhejwa khulu ngaphakathi komThethosisekelwethu.⁵⁰ ISewula Afrika iphasise imithetho ehlukahlukileko yokuqeda ibandlululo kanye nokuqinisekisa ukulingana eendaweni zoke ezihlukahlukileko, isib. ngokuphathelene nokulwisana nebandlululo langokomsebenzi, kune-*Employment Equity Act, 1998*.
126. URhulumente uphasise ne-*Promotion of Equality and Prevention of Unfair Discrimination Act (i-PEPUDA)* eyenzelwe ukukhandela ibandlululo elinganafeya ngeenzathu zangokobuhlanga, ubulili kanye nokukhubazeka. UmThetho uhlathulula ikulimo enehloyo njengamezwi 'angahlathululwa ngenye indlela ngokuzwisisekako ukwenzela ukukhombisa umnqophawo wokuzwisa ubuhlungu, abange ukubungozi nofana akhuthaza izondo yangokobuhlanga, ubulili, ukuzithwala, ubujamo bomtjhado, ubuhlobo nofana imvelaphi yehlalakuhle, umbala, ukuzibandakanya nobulili obuthileko, ubudala, ukukhubazeka, ikolo, unembeza, ikolelo, isiko, ilimi nofana ukubelethwa'. Ihlathululo le inabe ukudlula ihlathululo eqalelelwe ngaphakathi komThethosisekelo ngokuthi ifaka hlangana kokubili ikulimo ezwisa

⁵⁰ S 9(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

(3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture or birth.

(4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.

(5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

ubuhlungo kanye nebanga ubungozi, begodu nekulumo engabanga bonyana uomnqopho lo, uthule isakhi esinobungozi ehlathullulweni.⁵¹

127. I-Promotion of Equality and Prevention of Unfair Discrimination Act, 2000⁵² iqalelela iphahla lokuphunyeleliswa kwesigaba 9 somThethosisekelo. Kilokhu, umThetho uqalelela ukukhonjwa kwamaKhotho wezokuLingana. Ihloso yamaKhotho wezokuLingana kukwehlulela eendabeni eziqalene bunqopha nokuphathelene nokuphulwa kwelungelo lokulingana, ibandlululo elinganafeya kanye nekulumo enehloyo, ngombono wokuqedwa kwesithunzi ezimbi sesikhathi sebandlululo esisoloko siseseekhona nekungiso esigcine sele sihlukanise inarha ngokobuhlanga, ubulili kanye nangokuphathelene neemali. UmThetho undlala bonyana woke amaKhotho wezokuLingana ngobunjalo akhethwe njengamaKhotho wezokuLingana, kodwana okuqakatheke khulu kuwapha Amandla amanengi wokwehlulela ngokuphathelene neendaba zokulingana emaKhotho kamaRhastrada. UmNyango wezobuLungiswa ugunyaza amaKhotho kaMarhastrada njenganamandla wokusebenza ngeedaba zezokulingana, ngemva kobana isiphathiswa esingamele imilandu kanye nabasebenzi bamaKhotho la bathola ukubandulwa okufaneleko. Ilawulo lamaKhotho wezokuLingana laphakanyiswa begodu,⁵³ ngomnyaka wee-2009, woke amaKhotho waboMarhastrada agunyazwa njengamaKhotho wezokuLingana. Woke amaKhotho aPhakamileko nawo ahlala njengamaKhotho wezokuLingana. Lokhu kuthuthukise ukufunyanwa kobulungiswa njengombana njenganje umphakathi ukghona ukufaka isinghonghoyilo sokubandlululwa okunganafeya eKhotho kaMarhastrada eseduze nomphakathabo.
128. Iindlela ezihlukahlukene eziyipengu ezitholakala emakhotho la zenzelwe ukukhuthaza ubukghwari, indlela yokugwetjwa engakahleleki enokuyelela okuphezu nobujamo becala ngalinye kanye neendingo neenrhuluphelo zeenhlango. Kuneenqalelelo ezibanzi ezijanyisiweko ezivumela ikambiso yokugweba bonyana ithonywe babantu, labo abajamele umphakathi, ngokweenrhuluphelo zesiqhemeso nofana isigaba, nofana ihlango ejamele iinrhuluphelo zamalungayo.
129. Abantu abadinga isizo lokha nabaya eKhotho yezokuLingana bavamise ukusizwa litlege leKhotho yezokuLingana nofana yiKomitjhini yamaLungelo woBuntu yeSewula Afrika nofana yiKomitjhini yezokuLingana ngokoBulili, kuya ngokulawulwa sidingo. Nanyana iKhotho yezokuLingana ikuhlala kwekhotho kwangokomthetho nje, imithetho kanye neenkambiso azikaqini kangako ukudlula lezo zamakhotho ajwayelekileko. Ukwenzela ukuthoma ikambiso yokugweba ngaphakathi kweKhotho yezokuLingana akusisidingo bonyana umuntu kufanele abenomjameli wangokomthetho. AmaKhotho wezokuLingana asimahla begodu akabhadalisi, nje-ke ungazimbi akunambadelo zekhotho alindeleke bona azibhadela. Kwaba nokwehla nge-14% kwamacala abikwe eKhotho yezokuLingana phakathi komnyaka wee-2015/16 kanye newee- 2016/17. Inomboro zamuva nje zamacala abikwa emaKhotho wezokuLingana

⁵¹ Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000. <http://www.justice.gov.za/legislation/acts/2000-004.pdf>

⁵² UmThetho weNomboro 4 we-2000

⁵³ Government Notice No R764 of 13 June 2003 (Government Gazette 25065)

ngesikhathi somnyaka wee-2017/18 zikhombisa okhunye ukwehla okuma-51% wesibalo esipheleleko samacala abikiweko.⁵⁴

130. Amakhothwethu aphe iingwebo zamacala aqalene nokulingana begodu ehlisa nemithetho kanye nezenzo ezibandlululako. Isibonelo, ecaleni i-*Prinsloo v Van der Linde*⁵⁵ ikhotho yavuma bonyana -

*“Inarhethu inemiphakathi ehluhlukeneko enelemuko langokomlando kanye nokuhlala ebujamenini obuhlukileko. Ukufikela muva nje, iindawo ezinengi zepilo yomphakathi kanye neyangeqadi yaphazanyiswa ngehlelo lomthetho wokuhlukaniswa okhambisana nenzuzo kanye nobumbi obukukatelelwe ngomthetho. Umthelela wokwakhiwa kanye nokungalingani okukhulu kusesa khona nangaphandle kokufika komlayo omutjha womthethosisekelo. Kulinengi, begodu kungasi idlanzana, elatlhaga ngonobangela wokuhlukaniswa ngomthetho kanye nokudinywa amathuba.”*⁵⁶

131. Ecaleni i-*Minister of Finance v Van Heerden*⁵⁷ ikhotho yaqunta bonyana umThethosisekelo wamukela bonyana abalingani boke enarhenethu. Nangabe imethetho kanye nemigomolawulo iphikisa iqinisiweli, lokho kuzakuvele kurholele ukurhagaliseni ukungalingani okukhona njenganje:

*“Ihlelo lomthetho leKhotho le lenza kukhanye bonyana ukufunyanwa ngokwefanelo kwelungelo lokulingana kufanele kuquntwe ngokutjhejwa umlandwethu kanye neenkambisokolelo ezisisekelo zomThethosisekelo.”*⁵⁸ Njengombana sibonile ihloso ekulu yangokomthethosisekelo bonyana kukwakha umphakathi anganinani ngokobuhlanga kanye nonganakho ukungalingani ngokobulili osekulwe sithunzi sobuntu, ilawulo lomthetho, umoya wentando yenengi kanye namalungelo wobuntu.⁵⁹ Ukusukela lapho kuvela ukuthoma kokulingana okukhamba bekudlule ukulingana kwangokomthetho kanye nokungabandlululani ekungadingi ukuphathwa ngokuya ngendlela ongayo, nanyana ngisiphi isithomo nofana umthelela.”⁶⁰

132. Ecaleni i-*Minister of Home Affairs v Fourie* Sachs J kwaquntwa bonyana -

“Umphakathi wentando yenengi, wawo woke umuntu, okhathalako kanye norhuluphelele ipumelelo yokulinganako othabela woke umuntu kanye nowamukela abantu ngendlela abangayo. Ukuhlawulisa abantu ngonobangela wokuthi babobani nokuthi bayini kungahloniphi okukhulu kobuntu kanye nokuphulwa kokulingana

⁵⁴ Department of Justice and Constitutional Development, Annual Report, 2017/2018, page 34.

⁵⁵ 1997 (6) BCLR 759

⁵⁶ Indima yama-20

⁵⁷ 2004 (11) BCLR 1125 (CC)

⁵⁸ *Brink v Kitshoff* 1996 (4) SA 197 (CC); 1996 (6) BCLR 752 (CC) at para 40; *Prinsloo v Van der Linde and Another* 1997 (3) SA 1012 (CC); 1997 (6) BCLR 759 (CC) at para 31; *Pretoria City Council v Walker* 1998 (2) SA 363 (CC); 1998 (3) BCLR 257 (CC) at para 26

⁵⁹ See, for example, sections 1(a), 7(1) and 39(1)(a).

⁶⁰ Indima yama-26

kwabantu. Ukulingana kuhlathulula ukutshwenyeka ngokulinganako kanye nokuhlonipha koke ukuhluka. Ukuhlonitjhawa kwamalungelo wobuntu kudinga ukuziQinisekisa komuntu, kungasi ukuzilandula. Ngebangelo ukulingana akuhlathululi ukulinganisa nofana ukufananisa ngezenzo nofana ukukhothamela omunye wemihlobo njengemikhulu, kuthi eminye njengemincani, kodwana ukuvunywa kanye nokwamukela ukungafani. Ebuncaini bakhona, kuqinisekisa bonyana ukungafani akukafaneli kube ziinzathu zokuvalwa ngaphandle, ukudinywa amathuba kanye nokuhlaziswa. Ebuhleni bakhona, kukugidinga ukuqakatheka okulethwa kungafani kunanyana ngimuphi umphakathi”.

133. Ecaleni i-*Minister of Home Affairs and Others v Watchenuka* ikhotho ivume bonyana isithunzi siyadluliselwana kibo boke abantu nangaphandle kobutjhaba babo -

“Isithunzi sobuntu asinabutjhaba. Siyadluliselwana kibo boke abantu – abahlali kanye nabangasibo abahlali ngokufanako – ngebanga lokuthi bababantu. Begodu ngesikhathi kwenzakala bonyana umuntu azithole asenarheni le – ngananyana ngisiphi isizathu – kufanele sihlonitjhe, sivikelwe, nasigaba 10 somTlobo wamaLungelo woBuntu.”

134. Eqinisweni, izahlulelo zamakhothwethu ziragela phambili nokufakwa ngaphakathi kwemigomolawulo kaRhulumente ukwenzela ukuqinisekisa ukuqiniswa kwamalungelo wobuntu enarheni.⁶¹

Ubulelesi behloyo kanye nekulumo enehloyo

135. Ubulelesi behloyo ngilobo kubulelesi bobunjalo bomuntu, obungakanqotjhiswa kwaphela kungazimbi kodwana nesiqhemeni aphuma kiso. Ngebangelo ukuba ngungazimbi kulitshwayo lokunaba kwesiqhema sabantu. Nanyana ubulelesi behloyo bungathuweleliswa ngananyana ngubani nje, kanengi kuba siqhema sabantu abadinywe khulu amathuba esizithola sinqotjhiweko ngalokhu. Siphila ephasini lapho ukukhula kokutjhejwa khulu kokungafani kwabantu, iphasi elanda khulu ngokungabekezelelani. Akunakutlhayela kobulelesi behloyo nofana ikulumo enehloyo emphakathinethu. Ecaleni i-*SAHRC v Qwelane*, iKhotho yezokuLingana yamukela bonyana itjhaphuluko yokuvezwa kwamazizo angekhe yavikela iinkulumo ezinobungozi eenkambiswenilawulo zomthethosisekelo kanye nemalungelweni wobuntu, begodu nezithusela ukwanda kwentando yenengi.⁶²
136. ISewula Afrika inenani lemithetho eqalene nebandlululo, efana ne- *Promotion of Equality and Prevention of Unfair Discrimination Act (i-PEPUDA)* kanye nesigaba 9 somThethosisekelo, nokho awukho nowodwa umthetho kile ekhona owenzelwe ukuqalana bungqophu nobulelesi behloyo. I-PEPUDA iqalene nekulumo yehloyo, ukubandlululwa

⁶¹ Minister of Home Affairs and Others v Watchenuka and Others 2004 (4) SA 326 (SCA)

⁶² SAHRC v Qwelane case no EQ44/2009 (EQ13/2012) EQC (18 August 2017)

okunganafeya kanye nokuhlukunyezwa. Ibizo elithi “ubulelesi behloyo” alibandakanyeki ndawo ngaphakathi emThethweni.

137. Kuqakathekile ukutjheja bonyana i-PEPUDA yamukela bonyana ibandlululo elinganafeya kanye nekulumo enehloyo ingakha ubulelesi begodu kufanele ithathwe njengefektha elanonako ngeminqopho yokuthweswa isigwebo. Kodwana lokhu akulungisi ubulelesi behloyo ngabunye begodu bunqopha, njengombana kwenza ngokuphathelene nokuhlukunyezwa, ibandlululo kanye nekulume yehloyo. I-PEPUDA ukuyaphambili inokuthayelelwa ngendlela eqalana ngayo bunqophopha (esigabeni 28(1)) nebandlululo langokobuhlanga, ukukhubazeka kanye nobulili kodwana akufaki hlangana ubutjhaba nofana ukuzibandakanya nobulili obuthileko. Ngendlela le, i-PEPUDA yakha ‘ubukhulu behloyo’ ngokuthi ibekele phambili ezinye zeendlela zokubandlululwa kunezinye. Ukuthayelelwa okhunye kwe-PEPUDA kukuthi akukagandelelwa ngokwaneleko ekutholakaleni kwesisusa.
138. Njenganje kunomThethomlingwa wokuKhandelwa kanye nokuQedwa kobulelesi behloo kanye nekulumo yehloyo, ondlalwe ePalamende. UmThethomlingwa lo udzimelele phezu kweemphakamiso ezimumethwe ngaphakathi kwephahla lomgomolawulo owenziwako.⁶³ Ukwenziwa kwemithetho enqophileko yokuqalana nobulelesi behloyo kuzokuba nenani leenzuzo. Kuzokusiza ukwenza ihlathululo eyabelenweko yobulelesi behloyo hlangana nabo boke ababandakanyeka ehlelweni lobulungiswa bobulelesi; izakhuthumela umlayezo ozwakalako emphakathini bonyana ubulelesi behloyo angekhe bubekezelelwe eSewula Afrika; izakupha iinsetjenziswa ezingezelelekileko zabaphenyi kanye nabatjhutjhihi ukuthi bakghone ukwenza abathuwelelisi bobulelesi behloyo bona babe nokuziphendulela; izakupha iindlela zokubeka ilihlo imizamo kanye neendlela zokuqalana nobulelesi behloyo; izakuvumela ukuthintaniswa okunepumelelo phakathi kweensebenzi zikarhulumente ukwenzela ukunciphisa umthelela wokuhlukunyezwa ngokusolwa kwabongazimbi ngobulelesi behloyo. Ukuhlukunyezwa ngokusolelwa kwabongazimbi kwenzeka lokha abongazimbi nabazithola ngaphasi kokuphathwa ngendlela enganazwelo nofana engakalungi nofana iimfakela yamapholisa, iimphathiswa zetjhejo lezamaphilo nofana iimphathiswa zobulungiswa.

Ukuzondwa kwamaphandle

139. Ngemva kwezehlakalo zemiguruguru yokulwisana namaphandle yangomnyaka wee-2015, iqhinga likaRhulumente, ngokubambisana neenjamiso ezihlukahlukeneko zomphaphakathi ngokuragela phambili nokunciphisa kanye nokukhandela ubungozobu, landlalwa ngamahlangothi amanengi kanye nehlelo elihlanganisiweko. Imizamo karhulumente ithintaniswa ebujameni obuphezulu, hlangana nokhunye, ngokusebenzisa iinKomidi ze-Ofisi likaNgqongqotjhe (i-IMG) ezintathu nezikulu. Ama-IMG la – kuyiKomidi eyakhiwe ngaboNgqongqotjhe (i-ICM) ngokuphathelene nabaphalali, i-IMC ngokuphathelene nokuBumbana komPhakathi kanye ne-ICM ngokuphathelene nomGomolawulo waBantu. Egunyeno le-IMC ngokuphathelene nabaPhalali yalulwa ukwenzela nokusebenza ngabo boke abonobangela abakhulu benturhu ephakathi kweminiphakathi kanye namaphandle.

⁶³ For example, the National Policy Guidelines for Victim Empowerment list ‘Victims of Hate Victimisation’ as a priority group for assistance but there is no recognition of ‘victims of hate victimisation’ in any domestic current legislation.

140. Ezinye zeendawo ezilungiswako kilobu ubujamo, kubuyekwezwa kokuphunyeleliswa kwemigomolawulo yobuDlelwano bezemiSebenzi njengombana kunomthelela phezu kwamaphandle; ukuphunyeleliswa kwemithetho elawula amalayisensi wamarhwebo; ilawulo lomkhawulo wenarha kanye nemigomolawulo evamileko elawula ukuphuma nokungena enarheni. Lo kumsebenzi osaragako begodu i-IMC ithome imikhulumiswano neenhlango ezithintekileko ngehloso yokufuna isisombululo sasafuthi eenkingeni eziphakanyiswe miphikathi kanye namaphandle. Ngokokusebenza kwe-ICM, i-*National Joint Operational and Intelligence Structure (i-NATJOINTS)* ekusijamiso sokuthintanisa ukuphendula kwakarhulumente ekurhabekeni ekungendlela le, yenziwe bonyana isebenze. Ngaphezu kwalokho, iKomidi yeTheknikhali ebunjwa ngumNqophisi Zombebele weminyango ethintekileko, ipha isekelo eliqakathekileko emsebenzini okudingeka bonyana wenziwe ekuqalaneni nemirabho yabonobangela bokulokhu. Iinjamiso ezimbilezi zipha i-IMC isekelo elidingekako.
141. Kufanele kutjhejwe bonyana njengengcenywe yomsebenzi we-IMC, uMengameli ubambe umhlangano nabasebenzisani eSewula Afrika ukwenzela ukukhulumisana ngomgomolawulo wokungenwa nokuphuma enarheni kanye nokukhulumisana ngokuthi imikhakha ehlukahlukileko ingasebenzisana njani norhulumente ukwenzela ukukhuthaza ukungena nokuphuma enarheni okuhlelekileko kanye nobudlelwano obuhle phakathi kwezakhamuzi namaphandle. Imihlangano le yakhanjelwa ziimphathimandla zamabhezini, zemidlalo, zeenhlango zabajameli babasebenzi, imikhakha yobukghwari nemidlalo, abarholi bezekolo, iinhlangano zemiphakathi, iihlangano zelutjha, abantu abakhubazekileko kanye neemphathi mandla zendababuko. Abazibandakanyako begade babumbene ekuhlaleni kanye nokuphikisaneni nokusahlelwa kwamaphandle. Ukuya phambili bathembisa ukuzibophelela ekusebenzeni phakathi kwalabo ababajameleko ukwenzela ukwakha umphakathi ohlangeneko. Ngaphezu kwalokho, uMengameli wamema nabajameli bamaphandle ebahlala khona eSewula Afrika. Boke abazibandakanyako bagade babumbene ekuvumeni kanye nekubukeni imizamo karhulumente yokuqedwa kokusahlelokhu. Bazibophelele ukusebenzisana neemphathimandla zeSewula Afrika ukuqalana neentjhihlo. Kuqakathekile nokobana kutjhejwe bonyana urhulumente uhlome amahlelo wokulwisana nokuzondwa kwamaphandle kanye namajima wokubambisana komphakathi eenkolwe.
142. Amanye wamagadango avela ekufakeni isandla kwe-JCPS afaka hlangana okulandelako:
- Amapholisa abekele phambili ukuphenywa kwemiraro le kanye nokusebenzisana khulu neBandla lezokuTjhutjhiswa leNarha (“i-NPA”) kanye namakhotho ekusebenzeni ngemiraro le – khulukhulu lapho kunesibalo esiphezu sabantu ababotjhwe khona. I-NPA isungule amahlelo asisekelo wokulawula kanye nokusebenza ngamacala ngepumelelo begodu nangokurhaba. Ngaphezu kwalokho, iSekela lomNqophisi wokuTjhutjhiswa komPhakathi, isiKhulu sabatjhutjhisi, abatjhutjhisi abadala kanye nabatjhutjhisi beLawulo abazimiseleko bakhonjelwa bonyana babeke ilihlo, batjhutjhise begodu baphe umhlahlandlela ephenyweni lamapholisa. Abatjhutjhisi bayeleliswa begodu baqalelelwa ngomhlahlandlela wokuthi bangasebenza njani ngamacala la ngepumelelo. Lapho kutlhogeka khona, ikhotho ezimiseleko amahlelo asungulelwa ukusiza ekubekeleni phambili kwamacala ngemva kokulungela ukulalelwa kwecala.

- Ukubekwa ilihlo kwamacala avela emigurugurwini le kanye nokubekelwa phambili kwamaphenyawo kanye nokulalelwa kwamacalawo kuragela phambili. Ngaphezu kwalokho, i-DOJCD, i-SAPS kanye ne-NPA zisekambiswenilawulo yokubuyezwa kwamacala arhoqisiweko, avalwe njengakatholakali nofana lapho abantu batjhatjhululwe ngebanga lamatheknikalithi, ukwenzela ukusebenza ngabo boke ubutjhapho kanye neenkhala eziboniweko. I-NPA ihlome nemihlahlandlela yokuthi abatjhutjhisi bayisebenzise emacaleni la begodu lokho kwabiwa nabanye abababidlili beendima, khulukhulu iphiko le-SAPS. Kwahlonywa namajima wemiphakathi ukwenzela ukukhuthaza ihlelo lobulungiswa kanye nokufundisa abantu mayelana namalungelo wobuntu wawo woke umuntu. Khulukhulu, i-DOJCD yabamba iminyanya eqakathekileko ehlukahlukene emiphakathini ezingeni eliphakamileko ukwenzela ukutshwaya ukuzibophelela kukarhulumente mayelana nokuvikelwa kwamalungelo wobuntu. Iminyanya yomphakathi ye-DOJCD beyitjheje, hlangana nokhunye, umTlobo wamaLungelo woBuntu, ukuZondwa kwamaPhandle kanye nokuLingana.
- Iimphathiswa zeBandla lokuTjhutjhiswa leNarha eemfundeni zakhuthazwa bonyana zizibandakanye emikhulumiswaneni yomphakathi ehlelwe yi-SAHRC ngombono wokufundisa abantu ngeendaba ezirholela ekutheni amaphandle agcina sele atjhiya iinarha zabo kanye nomfakelabo emnothweni wenarha le. Ekuphikiseni ibheyila, lapho kutlhogeka khona, abatjhutjhisi bangenza bonyana ikhotho iyelele ngekgthonakalo yokuthuselwa kwabofakazi nofana abommgalelwa, kanye nokuhlangahlangana okubanzi kobulungiswa kanye nelawulo lomthetho.
- IGatja: imiSebenzi yeKhotho ngaphakathi kwe-DOJCD likhombise begodu lafaka phakathi kwebulungelelolwazi labatoligi bamalimi wamaphandle abangasiza ekusebenzeni ngemisebenzi yokutoliga lapho kutlhogeka khona ngokwamacala aphaathelene namaphandle.

143. IKomidi yesiKhatjhana yeHlanganyela yePalamende yenza iimphakamiso mayelana nomBiko wokuHlaziya iNturhu yokuLwisana namaPhandle kanye nesiQhema esiKhethekileko esimayelana nokuHlanganiswa kwabaPhalaliu nomPhakathi e-KZN, erholwa liJaji u-*Navi Pillay*. I-*National Investigative Hearing on Migration, Xenophobia and Social Cohesion in February 2018*. Ihloso yokulalelwa kwephenyo begade kukuhloma ngemibuzo umraro wabaphalali eSewula Afrika ngokutjheja khulu ukuphenya:

- abonobangela abakhulu kanye namafekeha anomthelela wokuzondwa kwamaphandle kanye nokhunye okhumbisana nakho okungabekezelekiko;
- izinga ekudlange ngalo ukuzondwa kwamaphandle kanye nokhunye okhumbisana nakho okungabekezelekiko enarheni;
- ububanzi bemiraro ephaathelene nendlela ekuphathwa ngayo amaphandle enarheni, ekufaka hlangana iintjhiijilo abaphalali abaqalene nazo zokuhlanganiswa nemiphakathi yekhayapha;
- izinga lokuzondwa kwamaphandle emazikweni okuqalene nephenyo leenqabo abaphalali abaqalene nazo ukuthi bathole imitlolo efanelekileko;
- ukufuma isekelo kanye neensiza ezisisekelo;

- ubungozi begodu kanengi nemikghwa emimbi yokusebenza iinqhema ezinganabuyo ezifana nabaphalali ezizithola ziphiwa yona begodu nokwanda kokuninwa kwamaphandle;
- izinga leemphakamiso zangaphambilini eliphunyeleliswe ngalo, khulukhulu iimphakamiso zombiko weKomitjhini yangomnyaka wee-2010, kanye nokuhlolwa kwamagadango athethwe ngemva komguruguru wokuzondwa kwamaphandle womnyaka wee-2015 ukukhuthaza ukuhlanganiswa kwabaphalali nemiphakathini yekhayapha;
- ukusebenzisana kweendawo zesibethamthetho kanye nomgomolawulo ukusuka ebujameni bamalungelo, kanye nomthelela wakho emalungelweni wabaphalali;
- indlela yokuthonywa kanye nokuphunyelelwa komthetho begodu nomgomolawulo kuhlongoze njani ukukhitjelelwa kwemithetholawulo kanye nomfakelawo ekuthuwelelisweni kokuhloywa kanye nokubandlululwa kwabaphalali;
- ukucatjangelwa kanye nendima yomthetho oqalelene nobulelesi behloyo begodu neHlelo laGadango leNarha ukuqeda ukuninwa ngokoBuhlanga, ukuBandlululwa ngokobuhlanga, ukuZondwa kwamaPhandle kanye nokhunye okungabekezelelekiko, ekufaka hlangana indlela okungaba nomthelela ngayo begodu/nofana imizamo yanjenganje yokulwisaneni nokuzondwa kwamaphandle;
- indima yokubikwa kwendaba kanye nabosaziwako ekuthuwelelisweni nofana ekuqedeni iinkolelo zokungekho eziphathelene nabaphalali; begodu
- neentjhijilo abaphalali abaqalene nazo zokuhlanganiswa nomphakathi eSewula Afrika kanye namagadango ebegade angamukelwa ukwenzela ukukhuthaza ukubumbana komphakathi.

Abantu abama-LGBTI

144. Ukuhlonywa kwesiQhema semiSebenzi yeNarha yi-DOJCD ngomnyaka wee-2011 begade kuhloselwe ukulwisana nokuragela phambili kokubandlululwa ngokobulili ozibandakanya nabo kanye nangobunjalo bobulili kwamalunga womphakathi we-LGBTI. I-DOJCD yahloma iHlelo le-LGBTI leNarha ekungezeleleni ekuzibopheleleni kwakarhulumende kanye nokukhutjiswa kweminqopho yeQhinga lokuNgenelela leNarha ukwenzela ukuqalana nokuhlukunyezwa ngokobulili kanye nokuzibandakanya nobulili obuthileko kanye neminqopho yesiqhema sokuphendula ngokurhabako ukwenzela ukurhabisa amacala ngaphakathi kwehlelo lobulungiswa bobulelesi.
145. Ngomnyaka wee-2012 ekuthuleni kwayo umBiko weNarha ngaphambi kwe-*Universal Periodic Mechanism of the United Nations Human Rights Council*, iSewula Afrika yabukwa maLunga weeNarha ze-UN ngokuzibophelela kwayo emalungelweni wobuntu kanye nokuthuthukiswa kweempilo zabahlali, ukuphakelwa kweensiza ezisisekelo ezifana nezindlu, zepilo nefundo kanye nendima yokukhamba phambili kweSewula Afrika emKhandlwini wamaLungelo woBuntu weeNarha eziBumbeneko, khulukhulu ngokuphathele namalungelo wabantu abaziintabana ezisikazi, iintabana eziduna, ubuntendembili, ubulili obuphambene nobelethwe nabo, ubulili obungathathi ihlangothi lobulili (i-LGBTI). Ngokulinganako, iSewula Afrika yakhonjelwa bonyana yenze amagadango arhabekileko zokuqalala nenturhu eqaliswe ebantwini amaba-LGBTI.

146. Lokha i-NTT ihlonywa ngobutjha ngenyanga kaMrhiyili wee-2013, i-DOJCD ngokubambisana namajameli abavela ngaPhasi kwamaZiko anagaphasi kweSahluko se-9 somThethosisekelo kanye neenhlangothi zomphakathi, ezifana neFawundetjheni yamaLungelo woBuntu, njenge-ofisi likanobhala womphakathi, yandlalwe ukuphumelelisa inani lemisebenzi ebudisi. Koke lokhu kufake hlangothi nokhanye, ukuthuthukiswa kweQhinga lokuNgenelela leNarha ekuphenduleni, kanye nokukhanda ubuleleli bemiguguru ephathelene nobulili kanye nokuzibandakanya nobulili obuthileko ethwelelwa mayelana nabantu abama-LGBTI kanye nokuthuthukiswa kweHlelo lokuPhunyelelwa elakhiwe ngemiKhakhami embalwa ezokuhlangothiwa nemizamo evundileko kanye naleyo esekelako, ingaphakathi kanye nelingaphandle le-DOJCD ekufana nokuthuthukiswa ngesikhathi esisodwa komThethomlingwa wobuleleli beHloyo kanye nePhahla lomGomolawulo, begodu neForamu yokuTjheja ubuleleli beHloyo kanye nokuBandlululwa. I-NTT izibophelele ekuqiniseni amandla karhulumente wokuphendula iindingo zabantu abama-LGBTI kanye nokuqinisa amandla wama-SCO ukwenzela ukwethula iinsiza ezifakhambelanako.
147. Ihlele ukuthuthukisa ukuthintaniswa kweminyango karhulumente, ukwenza amahlelo wangaphakathi kwe-DOJCD, afana nokuFunyanwa kobuLungiswa kanye nokuKhuthazwa kwamaLungu wangokomThethosisekelo, iHlelo le-SEJA langalesi isikhathi begodu nokusebenza ngokutjhidlene khulu namaZiko anagaphasi kweSahluko se-9 somThethosisekelo efanelekileko – ekufana neKomitjhini yamaLungelo woBuntu kanye neKomitjhini yokuLingana ngokoBulili – ukuqeda ukuninwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhanye okukhambelana nakho okungabekezelekileko begodu ngendlela leyo kuqalanwa nomthelela wemihlobo ehlukenileyo yebandlululo eliqaliswe ebantwini abama-LGBTI. Begade ihlose ukuthuthukisa ukulawulwa kwamacala badlali bendima abafanelekileko ngaphakathi kwehlelo lobulungiswa bobuleleli, ekufaka hlangothi iPhiko lamaPholisa weSewula Afrika, iBandla lokuTjhutjhiswa leNarha, umNyango wezokuThuthukiswa komPhakathi, umNyango wezamaPhilo kanye nomNyango wezokuHlengwa kweSimilo. Kokugcina ihlose ukuphunyelelwa, ukuthintaniswa, ukutjhejwa kanye nokuhluzwa kweQhinga lokuNgenelela leNarha begodu neminye iminqopho ekhambelana nalokhu.
148. Ituthuko ekulu sele yenziwe ukwenzela ukuhlangabezana neeminqopho le. Ukufikela ngalesi isikhathi iQhinga lokuNgelela leNarha, elihloselwe ukukhanda kanye nokuphendula ukuhlukunyezwa kwangokobulili kanye nokuzibandakanya nobulili obuthileko, yaphethwa begodu yahlonywa. IHlelo lokuPhunyelelwa elakhiwe ngemiKhakhami embalwa yeQhinga yaphethwa. IsiQhema sokuPhendula ngokuRhabako sihlangele ukubuyeleza ituthuko emacaleni amatjha kanye najanyisiweko ngaphakathi kwehlelo lobulungiswa bobuleleli, kuthi iinqhema zemisebenzi yenengi lemikhakha yeemfunda yahlonywa kizo zoke iimfunda, ngokuthi kuthuthukiswe begodu kuqiniseke indaba yokujameleka kanye nokuzibandakanya ngaphakathi kwe-NTT begodu nemagadango wefundo yomphakathi athethweko. Ekuqinisekiseni kokulingana ngazo zoke iindlela bonyana kufanele siphendule ngokuyelela ezehlakalweni zebandlululo kanye nobuleleli obenziwa mayelana nabantu abama-LGBTI, ngokusebenzisa iindlela ezindlalwe yi-NTT. Ngaphezu kwalokho, kufanele sisekele ngokubambisana ifundo yomphakathi kanye namahlelo wokubandulwa andlalwe ngaphasi kwe-NTT.

Abantu bendabuko

149. ISewula Afrika inabahlali bendabuko ababalelwa pheze ema-320,000 ekufaka hlangana abantu bama-San - *!Xun, Khwe*, kanye nebama-Khomani – imiphakathi yema-Nama, iinhlobo zama-Griqua kanye nesizukulwana sama--*Koranna*, begodu “nabavuseleli ba-Khoisan,” nababoke bababizwa ngama-Khoisan. Ngomnyaka wee-1996, urhulumende omutjha wentando yenengi owakhethwako wathatha amagadango ekuvumeleni amalungelo wama-Khoisan ngaphakathi kwe-Athikili yesi-6 yomThethosisekelo, ekhombela bonyana iBhodi yamaLimi woke weSewula Afrika (i-PanSALB) bonyana ingathuthukisi amalimi alitjhumini nanye asemthethweni kwaphela, kodwana ‘namalimi wama-Khoi, Nama kanye nama-San’. I-PanSALB yabumba iBhodi yeNarha yamaLimi wama-Khoi kanye nama-San.
150. Ngemva kwamakhetho wokuthoma wentando yenengi wangomnyaka we-1994, begodu nokuyingcenyeyeqhinga elipheleleko lokwamukelwa kobunjalo bama-Khoi-San, kwahlonywa iForamu ye-Geiqua yeNarha. Isijamiswesi sahlongoza bonyana kuhlonywe ibhodi yenarha ukwenzela ukujamela imiphakathi yama-Khoi-San eSewula Afrika ezakusebenza njengebhodi esijamiso esisodwa leyo uRhulumende azakubonisana nayo ngazo zoke iindaba eziphathelene nama-Khoi-San. Ngomhlaka 27 kuMrhayili we-1999 isijamiso senarha esihlonywe ngurhulumende kwaphela esathoma ukwaziwa njengomKhandlu wama-Khoi-San weNarha (i-NKC) sahlonywa.
151. URhulumende uragela phambili nokusebenzisana kanye nokusekela umKhandlu wama-Khoi-San weNarha (i-NKC) osebenza njengesijamiso esisodwa lapho leso urhulumende abonisana naso mayelana neendaba eziphathelene nama-Khoi-San. I-NKC iyakhiwe ngamalunga ama-30 ajamele iinqhema ezihlukaniseke ngezihlanu zomphakathi wama-Khoi-San (okuma-Griqua, San, Cape Khoi, Koranna kanye nama-Nama). Bageda bayingcenyeyokuthuthukiswa komThethomlingwa wobuRhali beSintu kanye nama-Khoi-San (i-TKLB) nekungilo ophasiswe siBethamthetho seNarha kanye nomKhandlu ongamele iimFunda weNahra muva nje. Umthetho uzokuqalelela ukutjhejwa ngokubasemthethweni kwabarholi kanye nemiphakathi yama-Khoi-San.⁶⁴ Umumethe izakhi ezingqophileko ezitjheja ilungelo lemiphakathi (nofana labantu bendabuko) bonyana bahlanganyele ekuzivezeni ngemihlobo yangokwamasiko, ngamalimi kanye nangokwekolo.
152. ISewula Afrika iphumelelise begodu yasekele ngeemali amagadango abonakalako kanye namahlelo aqakathekileko wezefundo, umnotho kanye newesayensi wokuvikelwa kanye nokuthuthukiswa kwabantu bendabuko. Aziwa ngengeHlelo leLwazi leNdabuko, ihlelo elikhutheleksweli libuthelela imiphakathi, amaziko wefundo ephakamileko, amaziko wamarhubhululo kanye nababambisani bangokomnotho begodu lithabela nesekelo likarhulumende. Ama-Ofisi wamaHlelo weLwazi wendabulo weNarha (i-INIKSO) womNyango wezeSayensi kanye neTheknoloji afumene ukwamukeleka kweentjhabatjhaba mayelana nobukghwari babo ekukhuliseni amahlelo welwazi lendabuko enarheni.

⁶⁴ The objectives of the bill are: to make provision for the recognition of the Khoi-San, to consolidate (subsequently to repeal) the National House of Traditional Leaders Act, 2009, and the Traditional Leadership and Governance Framework Act, 2003, to ensure an integrated and uniform approach in dealing with all matters relating to traditional leadership, to address the limitations of the two laws that are to be repealed, and to effect consequential amendments to other laws.

153. I-SAHCR indlale bonyana ukwamukelokhu kufanele kuphiwe ngokuthi iSewula Afrika ithethe amagadango anepumelelo ngokuphathelene nokuvikelwa kwamalungelo wabantu bendabuko, ekufaka hlangana ukusungulwa kweenjamiso eziimbalelwa kanye namaziko begodu nokuphasiwa kwemithetho kanye nemigomolawulo eminengi ehloiselwe ukukhandela ibandlululo elinganafeya kanye nokuvikela amalungelo wabantu bendabuko. Koke lokhu kufaka hlangana nokukhanye, inengi lemithetho ehloiselwe ukuvikelwa kwamalungelo wamahlelo welwazi lendabuko labantu bendabuko kanye namahlelo aphilathelene nokubuyiselwa kwenarha.

Ukuninwa ngokobuhlanga kanye nokuzindlekelwa ngokuvamileko kanye neenkundleni zokuthintana

154. Ukuninwa ngokobuhlanga kuragela phambili nokuzibonakalisa ngaphakathi kwemidiya yendababuko eSewula Afrika, neyizithola ingaphasi kwegandelelo lokwand lokwawulwa kweenkundla zokuthintana. Iinkundla zokuthintana, kobunye ubujamo, zinokuba ziindawo zokuninwa ngokobuhlanga okunganamikhawulo. Ngaphezu kwalokho, izipi zobuhlanga ziqubuke ezipini zamagama hlangana nabasebenzisi bezokuthintana ngokwabo. Imidiya kanye nezinye iindlela zokuthintana komphakathi, ezifana nethungelelwanohlanganiso kanye neenkundla zokuthintana, zidlala indima ekulu ekuvezweni kwamaziso ngetjhaphuluko kanye nokutholakala kokulingana. Kodwana lokha itjhaphuluko yokuvezwa kwamaziso kanye netjhaphuluko yezekolo nofana ikolelo zizijamele ngokulinganako begodu ziqinisa, itjhaphuluko yokuvezwa kwamaziso kufanele zingaqabheli elungelweni lesithunzi. Ngokulinganako, irekhodi, letuthuko erhabileko yeendlela ezitjha zokuthintana kanye nelwazi leenketjenziswa zetheknoloji, ekufana nethungelelwanohlanganiso kanye neenkundla zokuthintana, zenze kwabalula ukusatjaliswa ngokubanzi kwelazi lobuhlanga kanye nokuzondwa kwamaphandle ezinekhonakalo yokutjijizela ihloyo yangokobuhlanga kanye nenturhu.
155. Ekuphenduleni ukukhula kokungakghoni ukuzijamela kwabongazimbi ebulelesini obenziwa ngethungelelwanohlanganiso, iSewula Afrika iphumelelise inani lamaqhinga kanye neendlela zokungenelela ekufaka hlangana ukwamukelwa kwe-*National Cyber Security Policy Framework (NCPF)* ngomnyaka we-2012. Imiraro yokuninwa ngokobuhlanga kanye nehloyo yangokobuhlanga eyenzeka kubunzinzpolwazi bephasi zombebele kanye neenkundleni zokuthintana kuqalwana nayo ngokusebenzisa imithetho yokuqedwa kobuleleli obenziwa ngethungelelwanohlanganiso.⁶⁵ Inarha isekambiswenilawulo yokuphetha umthetho weendaba eziphathelene nobulelesi obenzeke ngethungelelwanohlanganiso. Lokhu kukukhambisana nomTlamo weKambiso yeYunyon ye-Afrika ekuhlonyweni kwephahla elifanelekileko lomthetho wokuvikeleka kwethungelelwanohlanganiso e-Afrika. Kutlhogeka bonyana iiNarha evumelene neKambiso bonyana zamukela umthetho wokwenza bonyana kube licala ukusatjaliswa kweezinto ezimumente ubuhlanga kanye nokuzondwa kwamaphandle ngokusebenzisa umtjhiningqondo nofana ithungelelwano lokuthintana le-

⁶⁵ Specific legislation on cybercrime has been enacted through the following instruments: - Electronic communication and Transactions Act No 25 of 2002 - The National Cyber security Policy Framework 2012 - Regulation of Interception of Communications and Provision of communication-related Information Act of 2002 - Protection of Personal Information Act 2013.

elektroniki kanye nokutjijizelwa kwenturhu eqaliswe emuntwini nofana eenqhemeni zabantu ngendlela efanako.

156. UmThethomlingwa wobuLelesi obenziwa ngeThungelelwanohlanganiso⁶⁶ awukamumathi nanyana ngiziphi iinqalelelo eziphathelele nobuhlanga, ukubandlulwa ngokobuhlanga, ukuzondwa kwamamaphandle (nokukhambelana nakho okungabekezelelekiko), njengomThethomlingwa wokuKhandelwa kanye nokuQedwa kobulelesi beHloyo kanye neKulumo eneHloyo (wee-2018) njenganje usebenza ngomkhakha lo wamacala. Umhlobo wamuva nje womthethomlingwa wobuLelesi beHloyo kanye neKulumo eneHloyo umumethe iinhlatululo eziphathelele nokurhatjwa, ukusatjhalaliswa ngokubanzi, ukukhuthazanofana ukuthintaniswa kwekulumo enehloyo ngethungelelwanohlanganiso.
157. Ngaphezu kwalokho iinkundla zokuthintana ngakelinye ihlangothi, ukutlolwa komutjhwana 4(1)(a) undlala mayelana nezakhi zokwenziwa kwecala lekulumo enehloyo. Ngokomutjhwana 4(1)(b) womThethomlingwa, kulicala ukusabalalisa ngehloso nofana ukwenzi izinto ezimumethe ikulumo enehloyo ngokusebenzisa ithungelelwano le-elektroniki, kanye nangethungelelwanohlanganiso. Umutjhwana 4(1)(c) uqalelela bonyana nanyana ngimuphi umuntu, okhombisana, ngehloso, ngananyana ngiyiphi indlela, izinto ezimumethe nofana owenza izinto ezakha ikulumo enehloyo, ezingatholwa mumuntu, nofana ezinqotjhiswe emuntwini othileko ongathathwa njengongungazimbi wekulumo enehloyo, uzakutheswa icala.
158. *I-Protection from Harassment Act, 2011*⁶⁷ uqalelela abongazimbi wokuhlukunyezwa ngeendlela ezinepumelelo mayelana nokuziphathokhu begodu wethula iindlela ezihlose ukwenza kube lula bona imikhakha yombuso iphumelelise iinqalelelo zomthetho lo. NgokomThetho, ihlathululo “yokuhlukunyezwa” ephiwe ngaphakathi kwesigaba 1 ifaka hlangana ukuzindakanya ngokunqophileko nofana ngokungakanqophi ekuziphatheni ummangalelwa akwaziko nofana bekafuna ukwazi (a) ukubanga ukulimaza nofana ukhuthaza ikolelo ezwisakalako bonyana kungabangeka ubungozi kummangalelwa nofana emuntwini okhambelanako ngokungazwisakaliko (ii) ukuzibandakanya ekumeni ngomlomo, ngesisetjenziswa se-elektroniki nofana ngananyana ngiyiphi enye indlela yokuthintana eqaliswe kumangali nofana emuntwini ahlobene naye, ngananyana ngiziphi iindlela, zokuthi ikulumo leyo yenzeka ngemvu kwalapho nofana (iii) ukuthumela, ukuthula nofana kubangela ukwethulwa kwahlangana nokhunye i-imeyi yangokwe-elektroniki.⁶⁸ “Ukuphehla intrurhu” ngethungelelwanohlanganiso, ukuhlukunyezwa ngethungelelwanohlanganiso kanye nokusatjiswa ngethungelelwanohlanganiso kuza neentjhijilo zakho.

⁶⁶ Bill 6 of 2017

⁶⁷ UmThetho weNomboro 17 wee-2011

⁶⁸ “Trolling” refers to offensive online postings and social media abuse.

ISAPHLUKO SE-7: IHlelo leGadango leNarha yeSewula Afrika lokuQeda ubuHlanga, iBandlelulo langokobuHlanga, ukuZondwa kwamaPhandle kanye nokhanye okukhambelana nakho okungabekezelelekiko

Umnqopho weNarha: Indima yabadlali bendima abaqakathekileko ekulwisaneni kanye nekuqedweni kobuhlanga, ibandlelulo langokobuhlanga, ukuzondwa kwamaphandle kanye nokhanye okukhambelana nakho okungabekezelelekiko

Urhulumende

159. Urhulumende unesibopho sokwenza iphahla lomthetho kanye nomgomolawulo wokukhandelwa kobuhlanga, ibandlelulo langokobuhlanga, ukuzondwa kwamaphandle kanye nokhanye okukhambelana nakho okungabekezelelekiko begodu nangomnqopho wokuphunyeleliswa kwamagadango kanye nezenzo zokukhandelokhu. Ukwenzela ukusekela amagadango, urhulumende kufanele enze imizamo yokukhandela ubuhlanga, ibandlelulo langokobuhlanga, ukuzondwa kwamaphandle kanye nokhanye okukhambelana nakho okungabekezelelekiko eendaweni ezifana nomgomolawulo wokufuduka, zesipholisa kanye nelawulo lobulungiswa begodu nokuthuthukiswa kwenengi lamasiko kanye nokuhluka ngokwamasiko. Ukubandulwa ngokwamalungelo wobuntu kwabasebenzi bakarhulumende kuqakathekile kilobu ubujamo.
160. Ngaphezu kwalokho, njengombana kundlalwe yiKomidi yamaLungelo wezoMnotho, zeHlalakuhle kanye namaSiko emfakeleni wayo zombelele wenomboro yama-21 (2009) amalungelo la athwesa iimbopho zemihlobo emithathu nofana amazinga kurhulumende: (a) isibopho sokuhlonipha; (b) isibopho sokuvikela; begodu (c) nesibopho sokufeza. Isibopho sokuhlonipha sifaka hlangana ukwamukelwa kwamagadango anqophileko ekuhloswe ngawo ukuphumelelisa ihlonipho yelunga lawo woke umuntu, umuntu ngamunye nofana ngokuhlangene nabanye nofana emphakathini nofana isiqhema bonyana sibe nokukhetha ngetjhaphuluko ubunjalo besiko laso, lapho sizozibandakanya khona nofana lapho singabandalanyeki khona emphakathini, begodu nokuthi kuhlonitjhe nesiqu nto saso. Lokhu kufaka hlangana ilungelo lokungazitholi ngaphasi kwananyana ngimuphi umhlobo wokubandlelulwa ngokwesiko, ukuvalelwa ngaphandle nofana ukukatelelwa ukukwamukela elinye isiko. Kokugcina, isibopho sokufeza sidinga bonyana iinhlango zomBuso zithathe isibethamthetho, ukuphathwa, zobulungiswa, isabelo mali, ukuthuthukiswa kanye namanye amagadango ezifaneleke ekuhloswe ngazo ukufumakela ngokuzeleko kwelungelo elimumethwe ngaphakathi kwe-athikili 15, endimeni yoku-1 (a) yesiVumelwano.⁶⁹
161. I-ICERD *Article 2* indlala bonyana zoke iinhlango zomBuso kufanle zihlabe ibandlelulo langokobuhlanga begodu zithome ukulandelela ngazo zoke iindlela ezifaneleke begodu nangaphandle kokuriyada umgomolawulo wokuqedwa kwebandlelulo langokobuhlanga

⁶⁹E/C.12/GC/21, paras. 48-49. Committee on Economic, Social and Cultural Rights Forty-third session. Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights) 2–20 November 2009

kwemihlobakho yoke begodu nokukhuthaza ukuzwisana hlangana kwayo yoke imihlobo yobutjhaba, kanye nokufikela la: (a) IHlangano yomBuso ngaYinye ithembisa ungangabandakanyeki ekwenzeni nofana emukghweni wokubandlululwa ngokobuhlanga kwabantu, iinqhema zabantu nofana amaziko begodu nokuqinisekisa bonyana zoke iimphathimandla zomphakathi kanye namaziko wombuso, wobujamo benarha kanye newendawo, azakusebenza ngokubumbana nesibophesi.⁷⁰

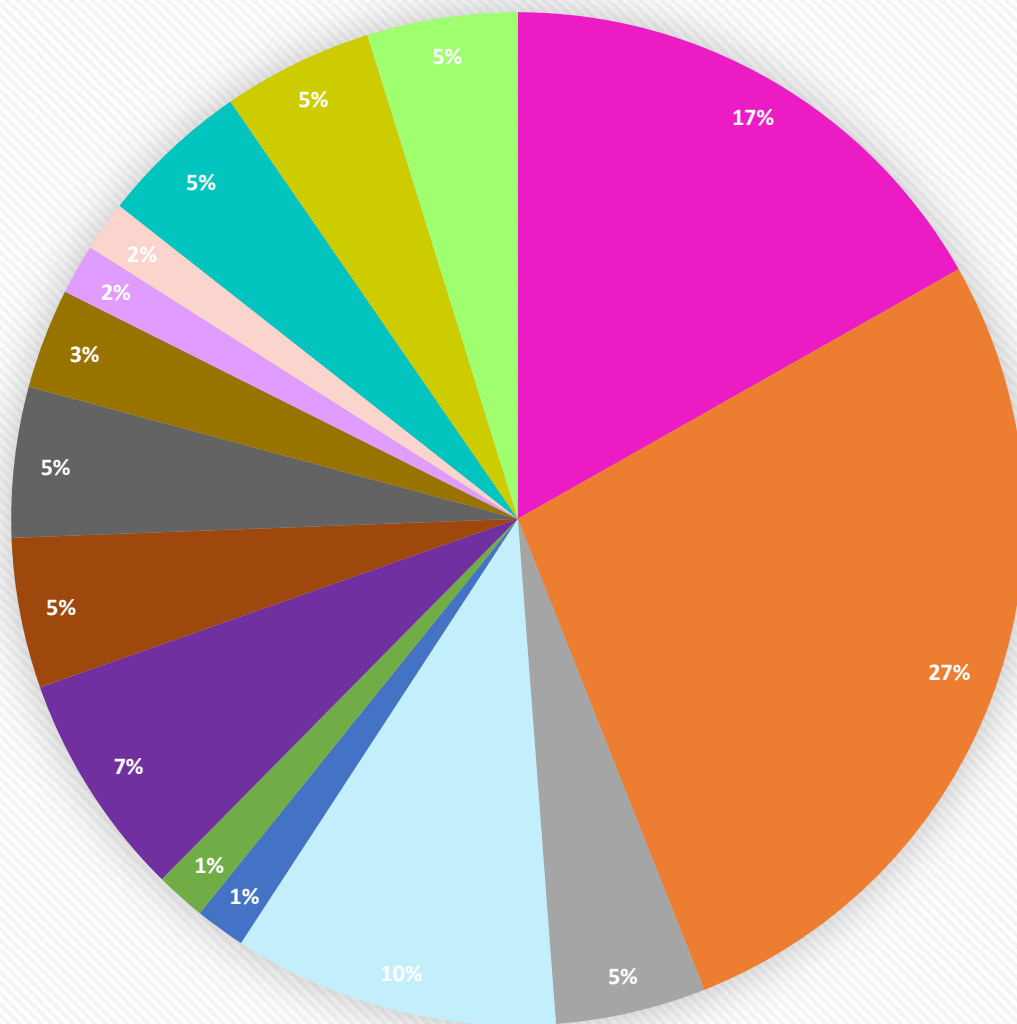
Iindlelazezokambiso zokukhulumisana

162. Ngemva kwe-WCAR kanye ne-DDPA, amagadango ahluahlukileko athethwe ukukghonakalisa ukuthuthukiswa kwe-NAP. UmTlambo we-14 wavunyelwa yiKhabhinedi begodu wenziwa bonyana utholakale kubunzinzolwazi bomnyango ukwenzela ukuthola umfakela womphakathi. Ukukhulumisa nomphakathi kwabanjwa ngomnyaka wee-2016 begodu iimfakela yafunyanwa ephikweni lezobulungiswa, amaZikweni angaphasi kweSahluko se-9 somThethosisekelo, umphakathi weenrhuluphelo ezifanako, zemidlalo, amaziko weendaba, ilutjha, abasebenzi, umphakathi, nezinye iinqhema zerhuluphelo, umkhakha wombuso kanye nowangeqadi. I-DOJCD nayo, ngokubambisana nabalingani kanye nabasebenzisani abahlukahlukeneko, babambe amajima ambalwa wokuyelelisa, imihlangano kanye neenkulumopendulwano mayelana nomTlambo we-NAP inarha yoke, ekufaka hlangana nemiphakathi esemazingeni aphasi. Yoke iimfakela efunyenweko ithathelwe phezulu emtlameni wamaswaphela we-NAP.
163. I-DOJCD ibambe imikhulumiswan yesifunda esifundeni saKwaZulu-Natal, e-Gauteng, eTlhwagwini Tjhingalanga, eMpumalanga, eTlhwagwini Kapa, e-Free State, ePumalanga Kapa, eTjhingalanga Kapa kanye ne-Limpopo ngomnyaka wee-2016. Umtlambo we-Nap begade utholakala nakiwo woke ama-*Thusong Service Centres* kanye nema-Ofisini wesiYingyi womNyango wezobulungiswa nokuThuthukiswa komThethosisekelo begodu nabo boke ababambisani kanye nomphakathi wamenywa bonyana uthumele iimfakela ku: nap@justice.gov.za.
164. Kwafunyanwa izethulo zesilinganiso esima-152 nasele zizoke ebantwini abama-140 kanye nezima-47 ezivela eenhlanganweni, eenqhemeni zeenrhuluphelo ezihluahlukileko, kanye nemaZikweni angaphasi kweSahluko se-9 somThethosisekelo. Ihlaziyo lezethulo ezafunyanwako, ngokuhlangeneko nemibono kanye neemfakela efunyenweko emikhulumiswaneni yesifunda, yenziwa begodu yabumba umbiko oveza okutholakeleko.

⁷⁰ UNOHCHR (1965). International Convention on the Elimination of All Forms of Racial Discrimination

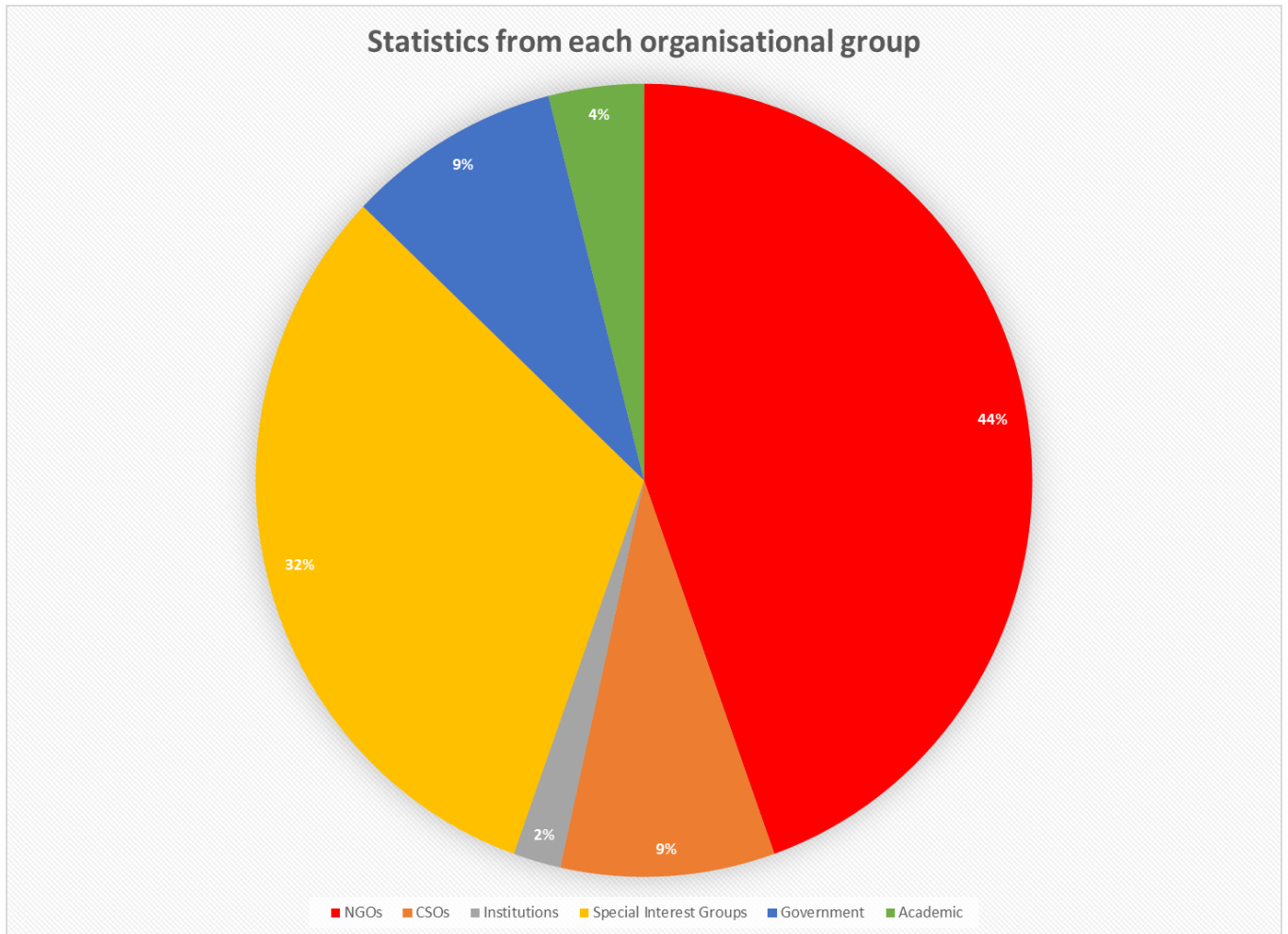
165. **Umfanekiso woku-1** utjengisa ukuhlukaniseka kwemiraro ehlukahlukene evezwe ziinhlango ezihlukahlukileko:

IIMBALOBALO ZEMIRARO EVEZWE ZIINHLANGANO



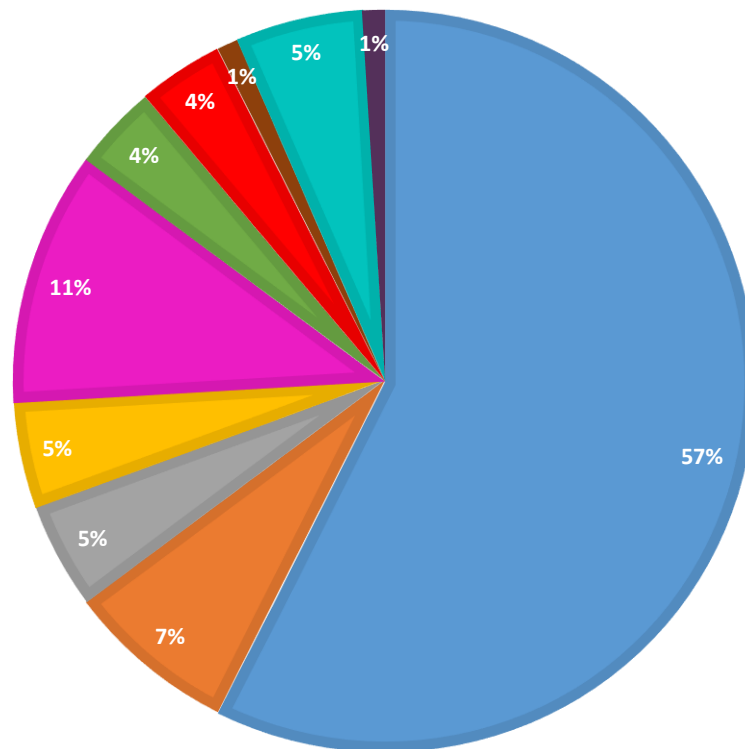
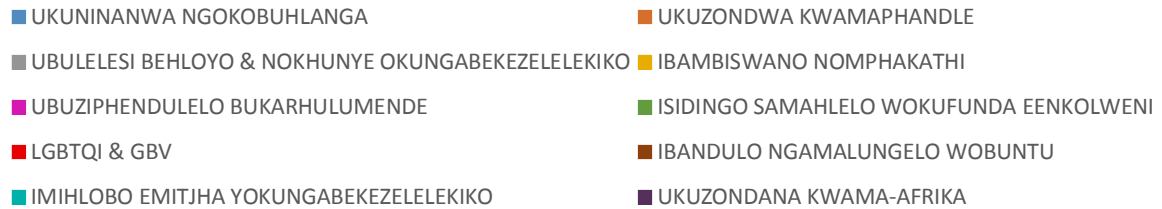
- | | |
|---|---|
| ■ Ukuzondwa kwamaphandle | ■ Ukuninanwa ngokobuhlanga |
| ■ Abaphalali | ■ ubulelesi behlobo nokungabekezelelekiko |
| ■ ukutlhogeka kwebambiswano nemiphakathi | ■ ukuzondana kwama-Afrika |
| ■ ubuziphendulela bukarhulumente | ■ ukukhubazeka |
| ■ ukutlhogeka kwesikolo sefundo efanelekileko | ■ i-lgbtqi & nokuhlukunyezwa ngokomseme |
| ■ ukutlhogeka kwebandulo ngamalungelo wobuntu | ■ imihlobo emitjha yokungabekezelelekiko |
| ■ ukubaliphandle ngokungekho emthethweni | ■ ukuhlangahlanga mayelana ne-NAP |
| ■ Ukulthogeka kwevikeleko leenkundla zokuthintana | |

166. **Umfanekiso wesi-2** undlala iimbalobalo ezivela esiqhemeni sehlangano ngayinye:



167. **Umfanekiso wesi-3** undlala ukuhlukaniseka kwamaphesende wemiraro evezwe mumuntu ngamunye:

AMAPHESENDE WEMIRARO EVEZWE MUNTU NGAMUNYE



Umuntu ngamunye kanye nemiphakathi: (ngemabhoksini wemitlolweni, kungasi ngokulandelana)

- “Ngidanile bonyana ngomnyaka wee-2016, abe-*Sotho* kanye nabanye begade basebenzisa ibizo elithi *makula* ukuhlathulula abantu abama-*Indian* e-SA. Ngabuza abantu abambalwa ebegade basenzisa ibizweli, begodu ngatjelwa bonyana kulibizo “elijayelekileko langamalanga”. Lisuselwa ebizweni elithi-*coolie*, nebegade kulibizo begodu nekusese libizo lokuqalela phasi njengalelo leledere u-*K* ekulibizo lokuqalela phasi elisuselwa ebizweni lama-*Arab*”

- “Ngifuna ukungezelela bonyana ukuninwa ngokobuHlanga akusiseenkolweni kanye nemakhweni kwaphela. Nebantwini abanzima... Ngimumuntu okhulileko kodwana angizokutjho iminyakami yobudala ngimumuntu onzima omu-Zulu ovela e-KZN. Kodwana njenganje ngihlala e-Jwanasbhege. Umphathami umumuntu onzima we-Afrika obuya ePumalanga Kapa. Wangitjela bonyana ngingathwali idugu emsebenzini. Ekuthomeni bengicabanga bonyana wenza ihlaya.. Kwesibili watjholokhu angikhombe epandla... Angikazokukhuluma nawe uthwele idugu le. Nginabentwana abathathu begodu ngineminyaka engaphezu kwema-44 yobudala”

- “ngangena isikolo samabanga aphakamileko esikhathini esadlulako... begodu kade ngaphambi kwesikhathi sesilulinhluthu. Nokho soke begade sihlanzekile begodu simbethe ngendlela efanelekileko.. Besiqaleka njengabentazana besikolo, besimbethe njengabentazana besikolo. Begade siziphatha njengabentazana besikolo begodu ukuziphatha kwethu begade kusezingeni eliphezuli elifanelekileko. Begade sihlonipha abafundisi bethu begodu besifunda ngamandla. Saya ekholeji yabafundisi ngomnyaka we-76 begodu senze ebekudingeka bonyana kwenziwe. Senza kuhle khulu. Abentwana ePitori angekhe bakame iinhluthu begodu iinhluthu zabo zibonakala njeendleke zeenyoni. Kodwana basakubiza ngokuninwa ngokobuhlanga.”

- “Imizamo yokungenelela efana neemfundobandulo, ukufundwa kwamalimi wendabuko, njll. Angekhe kwaqeda ukuninwa ngokobuhlanga. KODWANA cabanga nangabe kwaba licala elihlawuliselekako, abantu bebazokuvele bathome ukucabanga NGAPHAMBI kokuthi bathathe igadango nofana bakhulume ngendlela yobuhlanga. Ukulungisa iingqondo umonakalo weengqondo zabantu ngeenfundo eziphathelene nokuhlukahluka kwabantu kuzakukhamba kufika la kwaphela. Akwenzi bonyana kube licala ELIHLAWULISEKAKO. Kuqinisekile, bonyana kuzakuqeda ukuninana ngokobuhlanga.”

- “Umbono wokobana kubalwe bonyana amaSewula Afrika ayenzile ithuthuko nofana akayenzi ekudluliselweni “ubugwili” ukusuka ebantwini abamhlophe ukuya kabanzima ngendlela le kumbi ngandledlana thize, kodwana kungaphezu kwalokho – akukalungi ukusebenzisa izingeli ukuqunta ngokobana ilifa lesikhathi sebendlululo lisesekhona, ngendlela ngendlela ihlelo legadango lingayibeka ngayo.”

- “... ukujezisa abantu abamhlophe ngokungabaqatjhihi, ngokungabavumeli bonyana badlalele isiqhema senarha, ukubalela ngezabelo emahlelweni wezabelo zabantu abanzima kwaphela, ukuqatjha abantu abanzima ngaphambi kwabantu abamhlophe ngomnqopho wokufeza isabelo kube umuntu omhlophe kungenzeka kube ukulungele khulu ukudlula umuntu onzima kuyindlela yokwamukelwa kokunina ngokobuhlanga kanye nebandlululo. Eqinisweni lokhu angekhe kwalungisa umnotho. Lokhu angekhe kwanzinzisa ngobutjha ukungalingani ngokwehlalakuhle kanye nomnothho.”

- “ABantu beNdabuko bama-*Khoi* kanye nama-*San* abakabi ukwamukela ngokomthethosisekelo kungebangela basabizwa ngesitjhaba sabantu “abama-coloured” ngokuya ngokuhlathululwa kwangaphambilini makholoniyali/umbuso webandlululo ekuhlukanisweni kobutjhaba kanye nobuhlobo. Thina, ama-NKC, sibe nomfakela obanzi mayelana nomThethomlingwa wobuRhohli beSintu kanye nama-*Khoi* nama-*San*, ondlelwe epalamende muva nje, nanyana ikambisolawulo yariyadiswa ngesikhathi esingaphezu kweminyaka eli-17. Lokhu kuphetha njengokuvalelwa ngaphandle kwangokobuhlanga kwesitjhaba sabantu abahlathululwe njengaba “abasengozini”. Ukuvalelwa ngaphandle kwama-*Khoi* kanye nama-*San*, igugu lethu, umlando, ilimi, kanye nesiko kungezelele khulu ekungabekezeleleni, ukuninwa ngokobuhlanga kanye nokubandlululwa ngokobuhlanga kwesitjhaba sabantu, ebahlukaniseke ngokwehlelo lomthetho bonyana bagandeleleke begodu bamukwe isithunzi sobu-Afrika ngendlela enganabantu kangangokuthi ukuninwa ngokobuhlanga hlangana kwama-*Khoi* kanye nama-*San* sekungezelele khulu ngonobangela wehlelo elisahlathulula njengento ephambene nalokho esingikho ngokweqiniso.”

- “Ngicabanga bonyana ukuninwa ngokobuhlanga kungaphezu kwalokhu. “Ukuqinisekiswa kobukhulu kunabanye ngokuya ngokuhluka okudluliselenweko” akusiwo umoya wokuninwa ngokobuhlanga. Lokhu kukungazwisisi kuhle iindlela zehlangothi lika-*Kant* ngalokho akutjhoko. Umuntu akahlathululwa ngobuhlakaniphi bakhe, umzimba nofana isiko kodwana ngeqiniso lokuthi umumuntu ophilako, nofana ngefundiso yobuKresto, yokuthi wenziwe ngomfanekiso kaSoMnini. Kokubili kwanele. Ukulandulwa kokuqakatheka kobuntu bomuntu ngikho okuliqiniso lokunina ngokobuhlanga.”

- “Akuthonywe ngeemphathiswa begodu zibandulelwe: Ukuphendula imitatwazo ngokurhaba. Nawufika e-ofisini lakho, thoma usebenze begodu uragele phambili nokusebenza ngama-awara wokuba se-ofisini begodu ungaditjhi ulise nokudlela phambi kwabasenzisani bakho, abantu abatlhoga isizo kanye nabaphalali. Ungakhulumisi abasebenzisani, abantu abatlhoga isizo nofana abaphalali umlomakho usagcwele ukudla.”

AmaZiko angaphasi kweSahluko se-9 somThethosisekelo

168. ISahluko se-9 somThethosisekelo sihloma inani lamaziko azijameleko ngomnqopho wokuqiniswa kwentando yenengi yangokomthethosisekelo eSewula Afrika ngokuthi kukhuthazwe ngefanelo isiko lamalungelo wobuntu kanye nokuvikelwa, ukukhuthazwa kanye nokuphunyelelwa kwamalungelo lawo, ekufaka hlangana ukubekwa ilihlo kanye nokuhlolwa kokuphunyelelwa kwawo. AmaZiko angaphasi kweSahluko se-9 somThethosisekelo ngokufanako neenkambisolawulo⁷¹ eziphathelele nobujamo bamaziko wenarha ngokuthuthukiswa kanye nokuvikelwa kwamalungelo wobuntu anegunya eliqakathekileko ngokuphathelele nokukhuthazwa kanye nokuvikelwa kwamalungelo wobuntu ekufaka hlangana ukuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okukhambisana nakho okungabekezelelekiko. Kuhlekuhle angadlala indima ekuqalaneni nalokhu okulandelayo:

- Ukusiza abongazimbi bokuphathwa ngeendlela ezingafaniko ngeenlilo zabo
- Ukuphenya ukuphathwa okungafaniko
- Ukukhupha imibiko emayelana nokuphathwa okungafaniko
- Ukwenza iimphakamiso mayelana nokulwisana nokuphathwa okungafaniko
- Ukukhuthaza ukuvikela, ukuthuthukisa kanye nokutholakala kwamalungelo wobuntu kanye nokubeka ilihlo begodu nokuhlola ukuthotjelwa kwamalungelo wobuntu enarheni.

⁷¹ UN General Assembly Resolution 48/134 of 20 December 1993

169. Kuhlongozwe bonyana amaziko angaphasi kweSahluko se-9 somThethosisekelo, khulukhulu, adlala indima esisekelo ekubekeni ilihlo kanye nekuhluzweni kwe-NAP.

Umphakathi

170. Umphakathi udlala indima eqakathekileko ekutholakaleni kwetuthuko yamalungelo wobuntu kanye nokutholakala kwentando yenengi emphakathethu. I-*Durban Declaration* yamukela ukuqakatheka kwendima kanye nokubandakanyeka komphakathi ekuqedeni ukuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhunya okukhambisana nakho. Umphakathi unendima eqakathekileko ekufanele uyidlale ngokuthi wenze urhulumdende abe nokuziphendulela. Ngaphezu kwalokho, iinqhema zomphakathi zakhe ilemuko kanye nokghono elikhulu lokusebenza nabongazimbi bokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko.
171. Urhulumende weSewula Afrika uqinise ngobutjha ubudlelwano nomphakathi ekuqinisekiseni kokuthuthukiswa kanye nokubusa okuhle.
172. Ubukhulu kanye nokuzibonakalisa ngeendlela ezinengi kokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko kutlhoga ukuhluka kwamakghono umphakathi onawo. Abadlali beendima bomphakathi bangasiza ukurhubhulula kanye nokuhlaziywa komgomolawulo ngokuthi babuthelele loke idatha kanye nokukhomba ukuqubuka kokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko. Bangapha iiphathiswa zezomthetho ibandulo, isizo lezomthetho kanye namandla wokwakha eenqhemeni kanye nabongazimbi bokuninwa ngokobuhlanga, bokubandlululwa ngokobuhlanga, bokuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko, begodu bangathoma amajima wokuyelelelisa. Abadlali beendima bomphakathi baqakatheke khulu ekukhandeleni kanye nekuqedeni ukuninwa ngokobuhlanga begodu kufanele babambisane norhulumende ekwenzeni njalo.

Umkhakha Wangeqadi

173. I-NAP inomsebenzi ovundlileko kanye nonqophileko nje-ke unqophene nawo umkhakha wangeqadi. Amathuba wamarhwebo aragela phambili nokuhlathululwa ngokobuhlanga, ubulili, indawo yokuhlala, isigaba kanye nelimi likhaya. Umkhakha wangeqadi kufanele utjengise ukuzibophelela ekukhambisaneni namalungelo wobuntu asisekelo begodu utjengise indlela yeendaba zokuqatjiswa enganakubandlulula ngokobuhlanga. Lokhu kufanele kutjengise ituthuko yokuzibophelela begodu nokuveza imiraro engabakhandela ekwenzeni indawo yokusebenzela ejameleke khulu enarhenethu ngokutjheja bonyana umkhakha wangeqadi wenze ituthuko encani khulu kilokhu. Umkhakha kufanele utjheje bonyana iinkoro ezihlukileko zingadlala indima ekuqalaneni nemiraro emikhulu eyandisa iinkinga ezifana nomtlhago kanye nokutlhogeka kwefundo. Kanengi irhwebo kumkhakha

omunye oweqiswa amehlo lokha nakwenziwa iinkulumopendulwano mayelana namalungelo wobuntu.

Umkhakha Wezemisebenzi

174. Umkhakha wezemisebenzi kufanele ubandakanyeke ngokuragako emajimeni ambalwa wokuthuthukiswa kwabantu afaka hlangana nokhunye ukwandiswa kokuyeleliswa mayelana nokuninwa ngokobuhlanga kanye nokubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko eendaweni zokusebenzela, wandise ukuyelela kanye nokubekwa ilihlo ukusetjenziswa kwabentwana, ukhuthaze ukulingana ngokobulili, uphe ifundo kanye nebandulo amalunga weenhlango zabasebenzi, ukhuthaze ubuziphendulelo bukarhulumende ekulwisaneni nekoohlakalo. Umkhakha wezemisebenzi, ngokusebenzisa i-NEDLAC njengesijamiso esidingekako sokuhlanganyela kwangokomthetho phakathi kwakarhulumende kanye nehlango yabasebenzi, kwakhulunyisanwa nawo begodu kusazokuhlanganyelwa ekulumenipendulwaneni yomgomolawulo ophathelene nokuninwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko.

Imidiya

175. Isahluko 16 (1) somThethosisekelo siqinisekisa bonyana woke umuntu unelungelo letjhaphuluko yokuveza amaziso, ekufaka hlangana nokhunye, amalungelo wetjhaphuluko yamaphephandaba kanye namanye amamidiya begodu netjhaphuluko yezokufunda. Nanyana kunjalo, isahluko 16(2) sindlala bonyana amalungelo angehla la akafaki “ukukhuluma negndlela ephehla ipi; ukutjala umoya ongabangela inturhu; nofana ukuletha ihloyo yangokobuhlanga, ubuhlobo, ubulili nofana ikolo, begodu nalokho okuphehla inturhu engabangela ukulima”. Kafitjhjazana, ikulumo enehloyo akusiyikulumo etjhaphulukileko.
176. Imidiya idlala indima eqakathekileko ekwakheni inarha kanye nekwakheni ukungabandlululwa ngokobuhlanga kanye nangokobulili. Beendaba badlala indima ekwakheni umphakathi onelwazi, ofundisekileko kanye nokukghona ukuzijamela begodu okghona ukwenza urhulumende abe nobuziphendulela. Njengombana kundlalwe ngaphathi kwe-*Durban Declaration*, ukusetjenziswa kwelungelo letjhaphuluko yokuveza amaziso, khulukhulu kweembikindaba, kungaba nomfakela omuhle wokulwisana nokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko.⁷² Lokhu kuqakatheke khulu ekwenzeni bona intando yenengi isebenze.
177. I-NAP imukela bonyana ilungelo lokufunyanwa kwelwazi ngokusebenzisa amaphephandaba, umrhatjho kanye nethungelelwano kuqakathekile ekukwakheni umphakathi onelwazi kanye nosebenezako. Kuba nomthelela nekuthuthukisweni kwefundo kanye nomnotho. UmKhandlu wamaPhephandaba ungamela ubunzinzolwazi bamalungawo begodu nokuziphatha kwabo kulawula ikulumo enehloyo kanye nokuninwa ngokobuhlanga. IForamu yomHleli yePhasi (i-

⁷² Report of Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Rutere. Human Rights Council 20th session Agenda Item 9, 15 May 2012 http://www.ohchr.org/Documents/Issues/Racism/A.HRC.20.33_en.pdf

WEF) iphakamisa indlela edzimelele khulu ekukhuthazeni ukuqoqa okusizako njengookukhandela ukuhlukunyezwa.

178. Ukuzijamela kwamaziko wokubikwa kweendaba kanye neenjamiso ezilawulako ekufaka hlangana iHlangano eRhatjha ngoMoya yeSewula Afrika, iBandla lezokuThintana eliziJameleko leSewula Afrika, umKhandlu wamaPhephandaba weSewula Afrika kanye neBandla lamaZinga wokuKhangisa kufanele avikelwe.⁷³ Nanyana ukuhlukahlukeneko ngokuya kwalokho ukubikwa kwendaba eziqalana nakho kukhombisa ukunaba kokuhlukahlukeneko kwamaziko kanye nezindlu zokubikwa kweendaba. Kilobu ubujamo iinjamiso ezilawulako zokubikwa kweendaba zingadlala indima ehle ekufaka hlangana ukusiza ukwakha ngabutjha ukubikwa kweendaba okuhlukeneko ngokobuhlanga kanye nangobuhlobo, ngokwamukelwa kwamagadango afana nokukatelelwa nofana ngokuzithandela kweendlela zokuziphatha kwemidiya. Ukuzilawula kwabanikeli ngemisebenzi bethungelelwanohlanganiso kufenele kukhuthazwe.
179. Imidiya ikhuthazwe bonyana idlale indima ekulwisaneni nokuninwa ngokobuhlanga, ukubandlulwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko ngokubika izehlakalo eziphathelele nobuhlanga, ukuzondwa kwamaphandle kanye nokubandlulwa ngokobulili kanye nokuthuthukiswa kwamagadango andisa ukuyelelisa ukwenzela ukuyelelisa umphakathi.
180. Imidiya ngephezu kwalokho izakubandakanya begodu ikhulumisane ngokusebenzisa iinkulumopendulwano neenjamiso ezihlukahlukeneke ezijamele imihlobo ehlukahlukeneke yezindlu zokubikwa kweendaba enarheni. Lokhu kuzokufaka hlangana nezinye iHlangano eRhatjha ngoMoya yeSewula Afrika, iBandla lezokuThintana eliziJameleko leSewula Afrika, umKhandlu wamaPhephandaba weSewula Afrika kanye ne-SANEF. Ababiki beendaba, njengezinye iinqhema zeenrhuluphelo, baphiwa ithuba lokuveza umbono ekutlanyweni kwe-NAP ngesikhathi sekambisolawulo yokukhulumisana nomphakathi.

Zefundo

181. Amaziko wefundo ephakamileko kanye namaziko wefundo yethetjhari avamise ukudosa phambili ekutjhugululweni kwezehlalakuhle. Amaziko azakuphiwa isibawo sokobana qobe mnyaka athule umbiko esijamisweni sokubusa se-NAP mayelana nezehlakalo zokuninwa ngokobuhlanga, ibandlululo langokobuhlanga kanye nokukhambisana nakho okungabekezelelekiko kanye namagadango eziwathetheko ukulungisa lokho.

Iinjamiso ezisekelako

182. Zemidlalo zinamandla wokubumbanisa abantu – nofana ukubahlukanisa. Ukuninwa ngokobuhlanga kezemidlalo kusesekhona, kungasi eSewula Afrika kwaphela, kodwana ephasini loke zombebele. ZemiDlalo nokuziThabisa eSewula Afrika zizakuba nesibopho sokuthola ilwazi eenhlanganweni zemidlalo ezihlukahlukeneke zekhayapha mayelana

⁷³ National Development Plan: Vision for 2030. "Transforming Society and Uniting the Country." Chapter 15. P8
<http://www.gov.za/documents/national-development-plan-vision-2030>

nezehlakalo zokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, kanye nokukhambisana nakho okungabekezelelekiko, begodu namagadango athethweko ukwenzela ukuruthula kwemirabho yokuninwa ngokobuhlanga eenkundleni zemidlalo.

ISAPHLUKO SOBU-8: AMAGADANGO

183. Indima karhulumende ngokuphathelene namalungelo wobuntu ihlukaniseke kathathu: **ukukhuthazwa** kanye **nokuvikelwa** kwamalungelo wobuntu begodu **nokukhandela** ukuphulwa kwamalungelo wobuntu – nofana ukuvezwa ngokuhlukileko, ukutjhutjhiswa, ukuvikelwa, kanye nokukhandelwa, okwaziwa ngcono “njenge-3Ps”. Isahluko se-7(2) somThethosisekelo siveza ukubopha umbuso bonyana “uhloniphe, uvikele, ukhuthaze, begodu ufeze amalungelo angaphakathi komTlobo wamaLungelo woBuntu.”
184. Inarha yamukela iimbopho kanye nemisebenzi ngaphasi komthetho weentjhabatjhaba wokuhlonipha, ukuvikela, kanye nokufeza amalungelo wobuntu wabo boke abantu abangaphakathi komkhawulo wokubusa kwenarha, ngaphandle kokubandlululwa kwananyana ngimuphi umhlobo.⁷⁴ Ngaphezu kwalokho, iinarha, ekufaka hlangana nawo woke amagatjazo, zinesibopho esikhulu sokukhuthaza kanye nokuvikela woke amalungelo wobuntu, ekufaka hlangana ukukhandelwa kokuphulwa kwamalungelo la.⁷⁵ Iimbopho zeenarha zifaka hlangana umsebenzi wokuvikela nokuhlukunyezwa kwamalungelo wobuntu malunga angewesithathu, ekufaka hlangana imikhakha yangeqadi.⁷⁶ Iinarha zingaphula umthetho weembopho zamalungelwazo wobuntu weentjhabatjhaba lapho zihluleka khona ukuthatha amagadango afanelekileko ukwenzela ukukhandela, ukuphenya, ukuhlawulisa kanye nokuqalana nokuhlukunyezwa ekusemakhakeni wangeqadi.⁷⁷
185. ImiHlahlandlela i-NAP we-UN ihlongoza isijamiso esidzimelele phezu kwesidingo sokundlala ihloso enqophileko, umnqopho kanye namagadango, begodu nokuqakatheka kokukhethwa kweenjamiso zomBuso ezisebenzako, amalanga anqotjhiweko kanye neenkomba zethuthuko yomnqopho ngamunye. I-NAP ipha iinkomba ezikhanyako ngeminqopho yomBuso emizamenawo wokulwisana nebandlululo langokobuhlanga. Indlala amagadango kanye namatshwayo ngokukhamba kwesikhathi ekuzakutlhogeka bonyana aphunyeleliswe. Amagadango kannye namatshwayo andlalwe ngaphakathi kwehlelo abumba ijayezo elilisizo elikhulu lalabo abasebenza ngehlelo kanye nokupha umhlahlandlela emphakathi.
186. Ukwenzela ukuhlangabezana neemfuno, amagadango ahlongoziweko kanye neenkomba andlalwe la ngenzasi. Kufanele kugandelelwe bonyana amagadango la akakhambi awodwa, kodwana kufanele aqathathaniswe nemigomolawulo, amahlelo kanye nokungenelela okukhona.
187. I-DOJCD izakubamba **isifundohlaziyo esisisekelo esizokusebenza njengeenzathu zokulinganisa** ithuthuko enarheni ngemva kokuphunyeleliswa kwe-NAP. Ikhamba ukudlula

⁷⁴ Art. 2, International Covenant on Civil and Political Rights and the Human Rights Committee’s General Comment 31 (2004); art. 2, Convention on the Rights of the Child and the Convention on the Rights of the Child’s General Comment 5 (2003).

⁷⁵ A/HRC/RES/24/16, para. 2. The Inter-American Court of Human Rights has held that States have “a legal duty to take reasonable steps to prevent human rights violations” (*Velasquez Rodriguez v. Honduras*, 29 July 1988). E. Decaux and S. Touzé, *La Prévention des Violations des Droits de l’Homme* (Paris, Editions A. Pedone, 2015).

⁷⁶ See Human Rights Committee General Comment 31, para. 8 and Communication No. 195/1985, *Delgado Paez v. Colombia*, Views adopted on 12 July 1990; Convention on the Elimination of All Forms of Discrimination against Women General Recommendations 19 and 28. The European Court of Human Rights has established that claims may arise against the State when the police fail to protect individuals from violations of their rights by other individuals (*Osman v. United Kingdom* (Appl. No. 87/1997/871/1083), judgment of 28 October 1998).

⁷⁷ Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (annex of A/HRC/17/31), endorsed by Human Rights Council resolution 17/4.

imiraro ecatjangwako. Izakusetjenziselwa ukwenza iimphakamiso phezu kweendingo zokuvikelwa kweenqhema zalabo abasengozini kanye nabavalelwe ngaphandle. Isifundohlaziyo esisisekelo sizakuqalana nemithetho yangalesi isikhathi, imigomolawulo, amahlelo, imisebenzi, iindingo kanye neensetjenziso zabantu kanye namaziko ngomnqopho wokuqedwa kokuninwa ngokobuhlanga, ibandlululo langokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambisana nakho okungabekezelelekiko.

188. Ukuhlukaniseka kwedatha ngokwembalobalo kuzakubuthelelwa ukwenzela ukubona -

- amaphetheni wokuninwa ngokobuhlanga;
- Iinqabo eziliya ukuqedwa konuninwa ngokobuhlanga kanye nebandlululo ekufanele zihlulwe, ngokupha ukunakwa okukhethekileko imihlobo yamalanga la equbukako yokubandlululo lobuhlanga;
- Ukufunyanwa kobulungiswa kwabongazimbi bebandlululo langokobuhlanga;
- Amahlelo wokulwisana nebandlululo langokobuhlanga;
- Ilwazi eliphathelene nokungavunyelwa kwebandlululo langokobuhlanga phakathi kwesitjhaba zombelele kanye nahlangana nalabo abasengozini yokuba bongazimbi;
- Ukuthuweleliswa kwebandlululo langokobuhlanga bukhulu bemidiya (ekufaka hlangana umabonwakude, umrhatjho, ithungelelwanohlanganiso, amaphephandaba kanye namamagazini);
- Indlela ikharikhulamu eqinisekisa ngayo iinkambisolawulo zokulingana kanye nokungabandlululwana kiwo woke amazinga wezefundo, begodu
- Ukutholakala kanye nokufinyeleleka kwemitlolo yamalungelo wobuntu aqakatheke khulu kanye nezinye iinsetjenziswa ezivikela ukulingana kanye nokungabandlululwana engamalimi wenarha kanye newekhaya begodu nangendlela eyenziwe yabalula.

189. I-DOJCD izakuhloma ihlelo lokuYelelisa Kusesenesikhathi kwesikhathi ngaphasi koburholi besijamiso sokuthintaniswa enarheni elizokuthungelelwa **neNdlela yokuPhendula ngokuRhaba** esunngulwe yi-DOJCD. I-DOJCD izakuqinisekisa ubuqiniso bedatha kanye neembalobalo ezibuthelelweko begodu nezimenyenzelweko mayelana nenani lamacala wobuhlanga kanye nokuzondwa kwamaphandle abikwe emapholiseni, mayelana nenani lamacala atjhutjhisweko, kanye neenzathu zokungatjhutjhiswa kanye nomphumela walawo amacala atjhutjhisweko.

190. Ngokubambisana neminyango yakarhulumende, amaZiko angaphasi kweSahluko se-9 somThethosisekelo iFawundetjheni yamaLungelo woBuntu kanye nomphakathi osebenza ngemiraro le, i-DOJCD izakuhloma **ibuthelelolwazi elinamagama wabanikeli ngeensizi** abazokupha isizo emirarweni le ezokuthungelelwa neNdlela yokuPhendula ngokuRhaba.

191. I-DOJCD izokuthuthukisa **amaqhinga wokurhubhula** ekufaka hlangana ukuphenywa kobunjalo, abonobangela kanye nokuzibonakalisa kobuhlanga kanye nebandlululo ebujameni bakarhulumende kanye nebangeqadi begdodu neendlela ezinepumelelo zokuqinisekisa bonyana kubuthelelwe idatha kanye neembalobalo eziliqiniso.
192. Ukukhuthazwa **kwefundo yokulwisana nobuhlanga kanye nobandlululo** kusibopho esabiwa phakathi kweminyango karhulumende kanye namaZiko angaphasi kweSahluko se-9 somThethosisekelo. I-DOJCD ngaphasi kwelekelelo le-NAP izakukhuthaza ifundo yamaqhinga amahlangothi amanengi weminyango karhulumende kanye namagadango amukelwe ngiyo ukwenzela ukuqeda ubuhlanga, ibandlululo lobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko.
193. I-DOJCD izakuhloma begodu yakhe ifundo kanye **namahlelo webandullo** ngokubambisana neminye iminyango karhulumende, namaZiko angaphasi kweSahluko se-9 somThethosisekelo kanye nomphakathi ukwenzela ukukwandisa ukufundisa mayelana nokulwisana nemiraro yobuhlanga, ukulingani, ukulwisana nebandlululo phakathi eemphathisweni zikarhulumende, isitjhaba kanye nomphakathi zombebele, ukukhuthaza ukusekelwa okuvela kibosiyazi ngobunengi babo.
194. ThAmagadango la angafaka hlangana amahlelo ahlanganisa imizamo yenarha kanye nokubambisana nabanye abasebenzisani, ukukhuthaza ukusetjenziswa kokusisa kwangeqadi ngokukhulumisana nemiphakathi ethintekileko ukwenzela ukuqeda umtlhago, khulukhulu kilezo iindawo lapho abongazimbi bebandlululo lobuhlanga bahlala khona ngobunengi. Umkhakha wangeqadi kufanele ucabange ngokufaka isandla ekurhubhululeni ukuphenya ubunjalo, abonobangela kanye nokuzibonakalisa kwebandlulo langokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko.
195. Amagadango ahlelwe ngokusebenzisa ihlelo elisetjenziselwa iPhahla leQhinga lesiKhathi esiFitjhani (i-MTSF) begodu ngebangelo kufanele isize ngaphandle kobutjhapho ukuhlanganiswa kwe-MTSF kanye ne-NAP

Amagadango	Isibopho sokurhola (*kuqaliswe eHlelweni lokuPhumelelisa – ngokulawulwa kungatjhuguluka ngokuphathelene negunya elitjha ngemva kwamakhetho wenarha womnyaka wee-2019)	Imisebenzi kanye nemiphumela	Iinkhathi ezibekiweko: 2019-2024 (ngokuya ngeHlelo lokuPhunyelelisa)
1. IsiFundoshlaziyo esisisekelo	i-DoJCD	1. Ihlome isifundohlaziyo esisisekelo ukwenzela ukuqunta ngamazinga wokuninwa ngokobuhlanga, ukuzondwa kwamaphandle, ukubandlululwa ngokobulili okhethe ukuzibandakanya nabo, ubunjalo boliili kanye nokuziveza, izehlakalo zobuhlanga, ubudlelwano phakathi kweentjhaba kanye nemibono yobuzwe.	

		<p>2. Ukuhlanganiswa kwemibiko emayelana nemithetho, imigomolawulo, amahlelo iindingo kanye nobuntu kanye neenstjenziswa zamaziko zangalesi isikhathi ezitlhogekako ekuqedweni ukuninanwa ngokobuhlanga, ukubandlulula ngokobuhlanga, ukuzondwa kwamaphandle, ukuzindlekelwa ngokobulili kanye nokukhambelana nakho okungabekezelelekiko.</p>	
<p>2. Ukubuthelelwa kwedatha</p>	i-DOJCD	<p>1. Ihlome ibulungelo ledatha lekhomphiyutha elivela emithonjeni ehlukahlukeneko yokuhlukaniswa kweemalobalo zedatha ukwenzela ukubona:</p> <ul style="list-style-type: none"> • amaphetheni wokuninwa ngokobuhlanga; • Iinqabo eziliya ukuqedwa konuninwa ngokobuhlanga kanye nebandlululo ekufanele zihlulwe, ngokupha ukunakwa okukhethekileko imihlobo yamalanga la equbukako yokubandlululo lobuhlanga; • Ukufunyanwa kobulungiswa kwabongazimbi bebandlululo langokobuhlanga; • Ilwazi eliphathelene nokungavunyelwa kwebandlululo langokobuhlanga phakathi kwesitjhaba zombebele kanye nahlangana nalabo abasengozini yokuba bongazimbi; • Ukuthuweleliswa kwebandlululo langokobuhlanga bukhulu bemidiya (ekufaka hlangana umabonwakude, umrhatjho, ithungelelwanohlanganiso , amaphephandaba kanye namamagazini); 	

		<ul style="list-style-type: none"> • Ukutholakala kanye nokufinyeleleka kwemitlolo yamalungelo wobuntu aqakatheke khulu kanye nezinye iinsetjenziswa ezivikela ukulingana kanye nokungabandlululwana engamalimi wenarha kanye newekhaya begodu nangendlela eyenziwe yabalula. <p>2. Ihlome i-National Focal Point ukwenzela ukurhola ukuphunyelelwa kwe-NAP.</p>	
3. IHlelo leNdlela yokuPhendula ngokuRhabako yokubuthelelwa kwedatha		<p>1. Ihlome iHlelo leNdlela yokuPhendula ngokuRhabako ukwenzela ukuhlela izehlakalo zamacala/ubulelelisi behloyo yobuhlanga kanye nokuzondwa kwamaphandle abikwe ephikweni le-SAPS kanye naku-SAHRC mayelana nenani lamacala atjhutjhisweko, kanye neenzathu zalawo amacala angakatjhutjhiswa begodu nemiphumela yamacala atjhutjhiswe yi-NPA.</p> <p>2. Lokhu kuzakufaka hlangana amajima wokuyelelisa akhuthazako begodu afundisa umphakathi ngokubikwa kwezehlakalo zobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle, kanye nokukhambelana nakho okungabekezelelekiko eephathimandleni ezifaneleko.</p>	
4. Ibuthelelolwazi		<p>1. Ibuthelele ibuthelelolwazi/ihlelo lerhelo labanikeli ngeensiza ukwenzela ukupha isizo kibongazimbi bobuhlanga, bebandlululo lobuhlanga, ukuzondwa kwamaphandle, bokuzindlekelwa ngokobulili kanye nokukhambelana nakho okungabekezelelekiko.</p> <p>2. I-DOJCD izakuphatha ithungelelwano lehlelo lerhelo labanikeli ngeensiza ngaphakathi kobunzinzolwazi bayo, begodu yenze bonyana ilwazelo lifinyeleleke kiwo woke ama-ofisayo.</p>	

		<p>3. Ibambe kanengi amajima wokuyelelisa ukwenzela ukwazisa kanye nokutjela umphakathi mayelana nehlelo leensiza begodu nangokubambisana neenhlango zomphakathi.</p>	
5. Irhubhululo		<p>1. Ithome iphenyo ngobunjalo, ngabonobangela kanye nangokuzibonakalisa kobuhlanga kanye nebandlululo ebujameni bumbuso kanye nebangeqadi.</p> <p>2. Ithome irhubhululo elinqophileko elimayelana nobulungiswa bokubuyiselwa ebujameni.</p> <p>3. Ithome ihlathululo yekhwalthethivu nokwakheka kwesitjhaba sabantu bethu, khulukhulu abantu bendabuko kanye nabangasizo izakhamuzi.⁷⁸</p> <p>4. Ibuyekeze woke amagadango anqophileko amukelelwe ukulungisa ubujamo bokuhlukaniswa ngokwephuzu lamambala okuragela phambili eSewula Afrika kanye nokuhlaza umthelela wamagadango la.⁷⁹</p> <p>5. Ikhuthaze amathuba werhubhululo eendaweni zokukhandelwa kobuhlanga kanye nebandlululo.</p>	
6. Ifundo kanye nebandulo		<p>1. Ifundo kanye nobandulo kusibopho esabiwe phakathi kweminyango karhulumente kanye namaZiko angaphasi kweSahluko seThoba somThethosisekelo. I-DOJCD ngaphasi kwelekelelo le-NAP izakukhuthaza ifundo yamaqhinga amahlangothi amanengi weminyango karhulumente kanye namagadango amukelwe ngiyo ukwenzela ukuqeda ubuhlanga, ibandlululo lobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho</p>	

⁷⁸ Recommendation by the Committee on the Elimination of Racial Discrimination after consideration of South Africa's Country report on the ICERD, 2006, CERD/C/ZAF/CO/3

⁷⁹ Recommendation by the Committee on the Elimination of Racial Discrimination after consideration of South Africa's Country report on the ICERD, 2006, CERD/C/ZAF/CO/3

		<p>okungabekezelelekiko.</p> <p>2. Izakusebenzisana ne-SAJEI ukwenzela ukuqinisekisa ukubandulwa okufanelekileko kweemphathiswa zephiko lezobulungiswa.</p>	
<p>7. Ukulungiswa kwemiraro ephathelene nenarha</p>		<p>1. Ibandakanyeke ekulumenipendulwano yezwe ephathelene nenarha.</p> <p>2. Urhulumende uzakwakha umtlobo womgomolawulo ozokubekela phambili ukwabiwa kweenkhala, inarha engasetjenziswako kanye nesetjenziswako yombuso.</p> <p>3. Iqinisekise ipumelelo yamahlelo ukwenzela ukwandisa amagadango webandulo kanye nesekele elizokuqinisekisa ipumelelo yabazuzi bokutjhugululwa kwenarha.</p> <p>4. Ukwandisa ukuvikeleka kwesikhathi sokusebenzisa inarha kanye nokuqinisa ukuvikeleka kwabahlali bemaplasini.</p> <p>5. Zoke iindaba eziphathelene nenarha zizokunqotjhiswa ngamaphahla womthetho kanye neenkambisolawulo zepalamende.</p>	
<p>8. Ukuncitjhiswa kobuchaka</p>		<p>1. Iphumelelise ubuncani bomrholo enarheni begodu iqinisekise ukubekwa kwawo ilihlo kanye nokukatelelwa mNyango wezemiSebenzi.</p> <p>2. Ukwandiswa kwamahlelo wokuthuthukiswa kwamakghono kanye nokuthuthukiswa kwezokuthintana mayelana nokufunyaneka kwawo.</p> <p>3. Ukuthuthukiswa kweendlela zokwenziwa kwemisebenzi ukwenzela ukupha abatlhagako ipilo engcono.</p> <p>4. Ukuqiniswa kwevikeleko lemizamo yokutholakala kokudla.</p>	

<p>9. Ukurhabisa itjhuguluko</p>		<p>1. Umbuso kufanele uhlome ihlelo elinepumelelo ekulu ukwenzela ukuqinisekisa ukufunyaneka, kanye nobunini, bamaziko wezeemali kwabantu abanzima, ilutjha kanye nabafazi. Lokhu kufanele kufake hlangana iindlela ezitjha zokulawula kanye nokunikelwa ilayisensi eletha iphaliswano begodu nokwenza lula ubunini obuhlukahlukileko.</p> <p>2. Ukuthuthukisa itjhuguluko emkhakheni wezokuvakatjha.</p> <p>3. Ukubeka ilihlo ithuthuko yokuphunyeliswa kwemigomolawulo yokuqatjhwa ngokulingana.</p>	
<p>10. Ukususwa kwelifa lefundo yesikhathi sebendlululo</p>		<p>1. Amagadango wokusebenza ngokuzimisela ngeentjhijilo zokungalingani phakathi kwefundo yemakhaya kanye neyemadorobheni ngokuqinisekisa bonyana kuba neensetjenziswa ezaneleko zamaziko kanye neenkolo zokuthuthukiswa kwabantwana abasese bancani beendaweni zemakhaya nemalokitjhini ngokuthola amahlelo wefundo kanye nebandulo begodu neensombululo ezinganako, ezinepumelelo, ethuthukileko, kanye nengabandlululiko.</p> <p>2. Ukuqinisekisa ituthuko kanye nokuvangwa kweemfundo zokulwisana nokuninana ngokobuhlanga kanye nokulingana ekuthuthukisweni kwabantwana abasese bancani kanye nekharihulamu yesikolo.</p> <p>3. Ukukhutjhwa kanye nokubeka ilihlo amahlelo alwisana nokuninwa ngokobuhlanga emazikweni wokuthuthukiswa kwabantwana abasese bancani, eenkolweni kanye nemazikweni wezefundo ephakamileko.</p> <p>4. Yenze amahlelo amatjha, isiko lokufunda elingabandlululiko, ekufaka hlangana lawo ahloselwe ukuqeda ukuninanwa ngokobuhlanga, ibandlululo</p>	

		lobuhlanga, ukuzindlekelwa ngokobulili, ukuzondwa kwamaphandle kanye nokukhanye okukhambisana nakho okungabekezelelekiko.	
11. Ukukhuliswa kokukhiqizwa kwelazi		<p>1. Ukuphiwa isekelo leensetjenziswa kwabatloli kanye nabantu bobukghwari abaNzima.</p> <p>2. Ukuvulwa kwamajima akhuthaza abosolwazi abababantu abanzima ukuthi bakhuphe umsebenzabo.</p> <p>3. Ikhuthaze ukutjhugululwa kwezindlu zokukhutjiswa kwemitlolo ukwenzela ukuvula isikhala esikhulu sokukhuthazwa kwemibono yama-Afrika.</p>	
12. Ukutjhatjhululwa kwengqondo esikweni lekholoniyalizimu		<p>1. Ngokusebenzisa ihlelo lezefundo ukwenzela ukutjala eengqondweni zabentwana bonyana woke umuntu unamalungelwakhe wobuntu begodu nokobana akunamuntu ongaphezulu kunomunye.</p> <p>2. Yenze amahlelo ngaphakathi kwawo woke amaziko wezokufunda azokukhozela begodu nakhuthaza iinkambisokolelo zobuhlanga, amasiko kanye nokubekezelelwa kwekolo yabo boke abantu nangaphandle kokungafani kwabo.</p> <p>3. Ngokusebenzisa imidiya ukuveza kanye nokugidinga ubuhle bawo woke ama-Sewula Afrika kiyo yoke imizamo yabantu.</p> <p>4. Isebenzisane ne-SANEF/ izindlu zokubikwa kweendaba/ iinjamiso ezikhambelana nalokhu ukwenzela ukuqinisekisa ubujamo bezehlala kuhle kanye nebandulo lokuhlukahlukana ukwenzela bonyana umkhakha wokubikwa kweendaba uqinise ubutjhaba, okuvulekileko knaye nokubikwa okunobuziphendulela.</p>	
13. Ukukhuthazwa kokuhlalisana komphakathi	UmNyango wezokuThuthukiswa komPhakathi	<p>1. Ukuthola umebhe womphakathi eendaweni ekuqaliswe kizo.</p> <p>2. Ukhuthaze imiphakathi</p>	

		<p>ngokusebenzisa imikhulumiswano kanye neenkulumependulwano nomphakathi ukwenzela ukuyelelisa abantu mayelana nobunjalo bokuhlukana komlandwethu kanye nemiphumela yalokho.</p> <p>3. Ukusungulwa kwamajima wokukhuthaza umphakathi ukwenzela ukuqalana nobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokhunye okungabekezelelekiko.</p> <p>4. Ukuthuthukiswa kanye nokusetjenziswa kobukghwari namasiko ukwenzela ukwandisa ukuthatjelwa okukhulu kokuhlukahlukana ngokwamasiko njengokuyingcenywe eqakathekileko yokubumbanisana ubunjalo besizwe.</p> <p>5. Ukwandisa kanye nokukhuthaza ukuvakatjhelwa kweendawo zamagugu wenarha.</p> <p>6. Ukubeka ilihlo izehlakalo zokuhlanga, ukubandlululwa ngokobuhlanga kanye nokukhambisana nakho okungabekezelelekiko kezemidlalo.</p> <p>7. Usebenzise i-DBE ukwenzela ukwakha kanye nokubuyekeza imigomolawulo ezakufaka hlanngana boke abasebenzisani ekuphuyeleliseni kwamagadango wokulwisana nebandlululo lobuhlanga ukwenzela ukuqeda ubuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko.</p> <p>8. Ukuthintanbiswa kweenkambisokolelo zokuzibandakanya ekuthuthukiseni kweQhinga leNarha eliHlanganisiweko ukwenzela ukuVikela, ukuKhuthaza kanye nokuPhakamisa amaLungelo waBantu abaphila nobuSwepehe.</p>	
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14. Fundisa emikhulumiswaneni yomphakathi ngokuninwa ngokobuhlanga		<p>1. Ngokusebenzisa amalanga wenarha wokugidingwa kanye nasikhumbuzo ukwenzela ukuqeda ubuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko.</p> <p>2. Ngokusebenzisana nemidiya/ izindlu zokubikwa kweendaba/i-SANEF/ iinhlango zomphakathi kanye namaZiko angaphasi kweSahluko se-9 somThethosisekelo ukwenzela ukuqinisa amajima afana neVeke yokuLwisana nobuHlanga.</p>	
15. Ukulwisana nobandlululo langokwemvelaphi yobuhlobo		<p>1. Ngokuhlonitjha kwamasiko ahlukahlukileko, kanye nokufundiswa kwabafundi bethu eenkolweni mayelana nobungozi bokubandlulula ngokwenzathu zemvelaphi yibuhlobo.</p> <p>2. Ukufundiswa ngokuzikhakhazisa ngobuzwe ngokusebenzisama amatshwayo akhuthaza ubunjalo belizwe.</p> <p>3. Ngokusebenzisa amajima wokuthintana karhulumente ukwenzela ukukhuthaza umphakathi mayelana nokulwisana nebandlululo leenzathu zemvelaphi yobuhlobo.</p>	
16. Ukulwisana nokuzondwa kwamaphandle	UmNyango wozokuThuthukiswa komPhakathi	<p>1. Qinisekisa ukuphuyelelisa kweemphakamiso ezenziwe yiKomidi yeHlanganyela yePalamende eyaKhelwe mayelana nomBiko wokuHlaziya iNturhu yokuLwisana namaPhandle kanye nesiQhema esiKhethekileko esimayelana nokuHlanganiswa kwabaPhalali nomPhakathi e-KZN, erholwa phambili iIjaji u-Navi Pillay.</p> <p>2. Ngokuletha ngaphambili iindlela zokuqinisekisa bonyana amaphandle afunyanisa izenzelwa anelungelo lazo ngokomthethosisekelo.</p> <p>3. Ukukhuthazwa kwelungelo</p>	

		<p>lobuntu ekuphathweni kwabafuduki, abaphalali kanye namaphandle abatlhoga ububalekelo.</p> <p>4. Ukukghonakalisa ukuhlanganiswa kwabaphalali nemiphakathi lapho bahlala khona.</p> <p>5. Urhulumende uzakutjheje ukutlamo wephahla lomgomolawulo ophathelene nabantu abamaphandle ngokungekho emthethweni kanye nokuqedwa kobuphandle okungekho emthethweni.</p>	
<p>17. Ukuqedwa kwenturhu yangokobulili, ukubulawa kwabafazi kanye nokubandlulwa ngokobulili</p>		<p>1. Ukuqalana neenlilo ezivezwe ngaphakathi kwememorandamu yejima le-<i>#TotalShutdown</i> ethulwe ngaphakathi kweSimemezero seSamidi kaMengameli yokuLwisana nokuHlukunyezwa ngokoBulili kanye nokuBulawa kwabaFazi balingani babo. ukhlonywa kwemikhakha eminengi, iinjamiliso zokuthintanisa ukwenzela ukuphendula enturhwini yangokobulili kanye nokubulawa kwabafazi ekufaka hlangana ukwabelwa kweensetjenziwa ezaneleko ezitlhogekako begodu nokwenzela ukuthuthukisa iqhinga lenarha eliqalene nokuhlukunyezwa ngokobulili kanye nokubulawa kwabafazi.</p> <p>2. Ukusungulwa kwe-<i>Femicide Watch</i>.</p> <p>3. Ukukhuthaza iinkulumopendulwano zomphakathi ukwenzela ukuqeda ukuhlukunyezwa kwabafazi nabentwana.</p> <p>4. Ukwabiwa kweensetjenziwa ezaneleko kanye nokuqiniswa kwama-<i>Thuthuzela Care Centres</i>, izindlu kanye namaKhotso wamaCala wokuKata.</p> <p>5. Ukuqinisekisa ukuphunyeleliswa kwe-<i>Domestic Violence Act (116 ye-1998)</i></p>	

		6. Ukuqalana nenturhu eenkolweni kanye nokuqalelela boke abafundi ngebhoduluko eliphephileko.	
18. Ukusekelwa kwabongazimbi bekhoniyalizimu kanye nombuso webandlululo		<p>1. Ukufundisa abafundi ngomlandwethu wekhoniyalizimu kanye nombuso webandlululo.</p> <p>2. Ukuqedelela nanyana ngimuphi umsebenzi osaleleko/ ongakapheli weKomidi yezamaQiniso nokuBuyisana, ekufaka hlangana ukuphonyelelisa kweemphakamiso zayo.</p> <p>3. Ukukhuthaza ukutlilitwa kwesiVumelwano esimayelana nomBuso webandlululo kanye nesiVumelwano sokuLwisana nokuNyamalalaa okwaKatelelwako</p> <p>4. Ukwazisa mayelana namatshwayethu wenarha kanye neenkutana zomzabalazo.</p>	
19. Ukukhutha ukwazi ngomthethosisekelo kanye nangamalungelo wobuntu		<p>1. Ukuphonyelelisa kwamahlelo afana ne-Amarightza <u>ukwenzela ukuphakamisa amalungelo wobuntu kanye nokwazi ngomthethosisekelo.</u></p> <p>2. Ukufundisa imiphakathi ngokuthi ungawasebenzisa njani amalungelwawo ngokusebenzisa iindlela ezifana nokujameleka kwabo embusweni, emaZwikhweni angaphasi kweSahluko se-9 somThethosisekelo kanye nemakhotho.</p> <p>3. Ukukhuthaza ukusetjenziswa kwamaKhotho wezokuLingana kanye nokuQiniswa kwamaKhotho wezokuLingana.</p> <p>4. Ukwenza amaPhaliswano wokuPhikisana ngomThetho kwabafundi beenKolo zeNarha abeyingcenyekharikhulamu.</p> <p>5. Ukuthuthukiswa kwamaqhinga wendlela kamasipalada ukwenzela ukuqeda ubuhlanga, ukubandlululwa ngokobuhlanga kanye nokuzindlekelwa (isb.</p>	

		<p>njengendlela uMasipala omKhulu weThekwini enze ngayo.)</p> <p>6. Ukuhlanganiswa ngokuzeleko kwe-CRPD nemthetho wenarheni yekhethu iSewula Afrika.</p>	
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Isahluko se-9: Indlela yokubusa

196. I-NAP itlhoga indlela yebambiswano lemikhakha ehluhlukeneko edzimelele ekuzibandakanyeni okusebenzako kweminyango karhulumente ehluhlukelele nemikhakha. I-NAP idinga isijamiso esihlanganisiweko ngaphasi kwe-ofisi likaNgqongqotjha elizimiseleko elibandakanya abadlali bendima abahluhlukelele, elibika esijamisweni esiphakamileko sezepolotiki enarheni. Ukuphunyeleliswa ngepumelelo kanye nokuthembekako kwe-NAP kusekelwe ngesijamiso sokuphatha ngepumelelo kanye nokubeka ilihlo begodu nokuhluzwa kwamahlelo aphunyelelisiweko. Lokhu kuqinisekisa ukuqakatheka kwesijamiso esihlathuleleke ngokuqaqileko nangokuzwisisa okufanelekileko kweendima ezihluhlukelele kanye neembopho zabo boke abadlali beendima ababandakanyekako.
197. Izakhi ezilandelako kufanele zitjhejwe ukwenzela ukusiluleka ngokuhlonywa kwendlela yokuphatha enepumelelo:
- (i) Ukuqakatheka kobunjalo bokuqalana nokunengi ngokulamana kwe-NAP;
 - (ii) Ubuziphendulela esiphathimandleni esiphakamileko enarheni, ukuthula umbiko kuKhabhinedi/ePalamende;
 - (iii) Isekelo lezepolotiki ezingeni eliphakamileko, elifana ne-ofisi lakamongameli;
 - (iv) Ukuphunyeleliswa kwe-NAP kiwo woke amazinga karhulumente ngokunqophileko kanye nangokuvundlileko ngesekelo lezepolotiki kiwo woke amazinga (kurhulumente welizwe, weemfunda kanye newendawo);
 - (v) Ukuphunyeleliswa kwe-NAP kutlhoga indlela yebambiswano lemikhakha eminengi yakarhulumente kanye nemikhakha yangeqadi;
 - (vi) Amalunga azakukhethelwa ukuba bosolwazi kanye namakghonwabo (isb. Irhubhululo, ukuhlaziywa kwedatha; ukuthuthukiswa kanye nokuhlaziywa komgomolawulo; ukulingana, ukuninwa ngokobuhlanga, ilawulo lelwazi njll);
 - (vii) Itjhejo kufanele liphiwe ukubunjwa, igunya, iindima kanye neembopho begodu neendaba zokubusa zesijamiso (iphahla/ iminqopho);
 - (viii) Ukuthola iminyango karhulumente engemikhulu/erholako kanye nesekelako ukwenzela ukujamela kanye nokubandakanyeka ngaphakathi kwesijamiso sokubusa;
 - (ix) Iminyango karhulumente izakuthola abajameli begodu nokungamela ukuzibandakanya esijamisweni sokubusa;
 - (x) Iindima ezihlathuleleke ngokuqaqisiweko kanye neembopho zabo boke abadlali bendima ababandakanyekako (Iminyango kaRhulumente; amaZiko angaphasi kwesiSahluko se-9 somThethosisekelo; iihlangano zomphakathi; isibethamthetho, iphiko lezobulungiswa kanye neminye imikhakha ehluhlukelele);
 - (xi) Iminyango karhulumente izazibandakanya esijamisweni ngokuya ngokuvunyelwa kwe-APP kanye ne-MTSF yayo ehlela ukuphumelelisa amahlelo wokulwisana nebandlululo;
 - (xii) Yoke iminyango karhulumente ikatelelekele bonyana iqinisekise bonyana i-APP yayo ngokulamana ikhombisa amagadango wokulwisana nebandlululo ngokuya nge-NAP yamaswaphela;

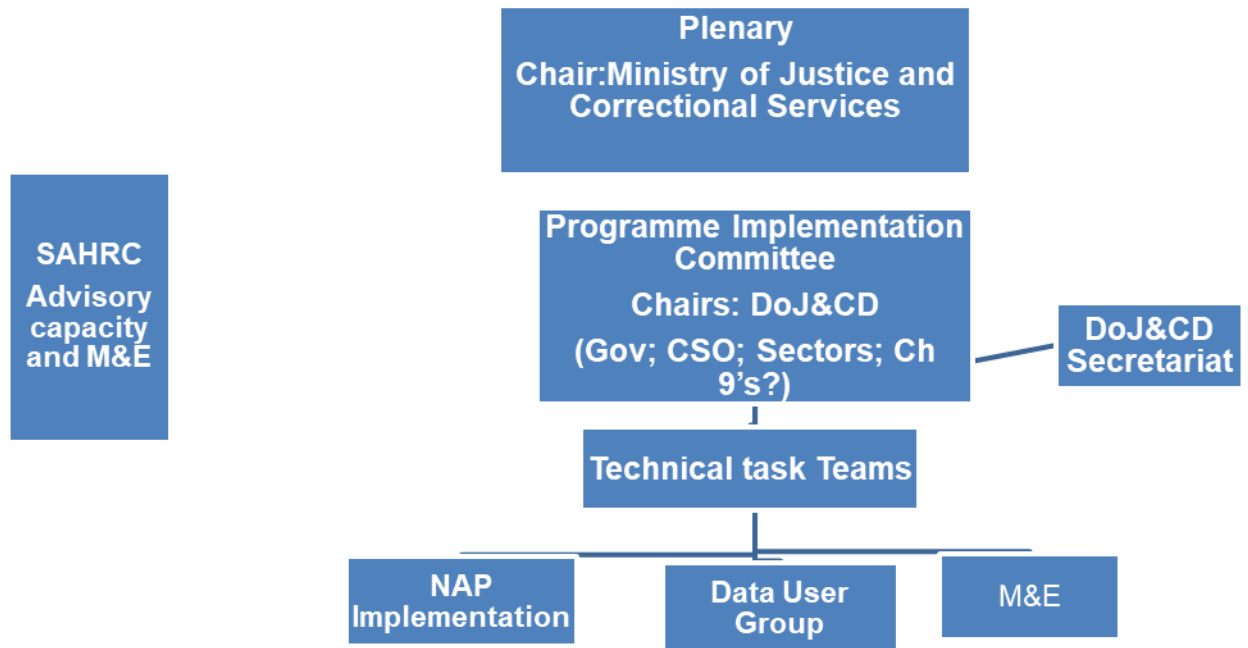
- (xiii) Urhulumende njengomjameli wokuphakelwa kweensiza: uhlukanisa ngokulinganako i-ofisi likanobhala womphakathi eliphiwe amandla kanye nelisekelwe ngeemali ukwenzela ukusekela isijamiso sokubusa kanye neengunyazo nemisebenzi yeenqhema ezihlukahlukene zemisebenzi yetheknikhali;
 - (xiv) lindleko zesakhiwo sokubusa, begodu
 - (xv) Netjhejo ekufanele liphiwe kwabiwa kweembopho zeenjamiso zangalesi isikhathi ngaphakathi kukarhulumende.
198. Indima eziqakathekileko zePalamende, njengesibethamthetho kanye neKhabhinedi, njengegatja lesigungu sikarhulumende ezingeni eliphakamileko lokuhlongozwa kwesijamiso sokubuswa kwe-NAP ukwenzela ukuqinisekisa ukuphunyeleliswa kwe-NAP ngiwo woke amazinga karhulumende kanye nomphakathi nokuqinisekisa isekelo lezopolotiki ezingeni eliphakamileko kungokuvamileko kokubili ekukhethwa kikho. IPalamende kufanele ibe ngaphezulu kwesijamiso sokubuswa kwe-NAP. Lokhu kuzokuqinisekisa ukuphunyeleliswa kwe-NAP kiwo woke amazinga wakarhulumende kanye nemphakathini begodu nokuqinisekisa isekelo lezopolotiki lezingeni eliphakamileko.
199. Indima yokungamela yePalamende esijamisweni sokubuswa kwe-NAP iqakathekile ngeenzathu ezilandelako:
- IPalamende inendima eqakatheke khulu eyidlalako njengegatja lesibethamthetho sikarhulumende;
 - UNgqongqotjhe wezobuLungiswa nokuHlengwa kwesiMilo uthula umbiko ePalamende ngokusebenzisa iKomidi yezemiSebenzi efanelekileko;
 - IinKomidi zezemiSebeni ziqakathekile ekuqinisekiseni urhulumente kanye nokubandakanyeka komphakathi okunepumelelo;
 - IinKomidi zePalamende zipha ithuba amalunga womphakathi bonyana aveze imibonwawo eendabeni ezidenjiweko;
 - Ukuqinisekisa ukukhula kokuzibandakanya kwamalungayo emikhulumiswaneni ephathelene nokuqalala nenengi lemiraro ye-NAP;
 - Ukupha isekelo lezopolotiki lezinga eliphakamileko elidingekako ukwenzela ukuphunyeleliswa kwe-NAP;
 - Ukwenza iminyango yoke karhulumende bonyana ibenobuziphendulela ekuphunyelelisweni kwe-NAP, begodu
 - Nokungamela ukubekwa ilihlo kanye nokuhluzwa kokuphunyeleliswa kwe-NAP.
200. Indima yeKhabhinedi esijamisweni sokubuswa kwe-NAP nayo iqakathekile. Ngonobangela wokuvundla kwe-NAP kutlhoga ilawulwe ngaphakathi kwawo woke amatlasta wakarhulumende kanye neenKomidi zeKhabhinedi ezifanelekileko, begodu kungasi ngaphakathi kweKomidi yeKhabhinedi ye-JCPS. Ngaphezu kwalokho, itjhejo kufanele liphiwe ubukhulu bokufaka imiraro yomphakathi kanye nezakhi emisebenzi ye-JCPS nakamanye amaTlasta, ngokukhambisana neenkambisolawulo zokuthi amalungelo wobuntu ngewomuntu woke begodu akanakutjhijilwa; akahlukaniseki, ayasekelana begodu ayakhambelana.

201. IKhabhinedi njengesijamiso esenza umgomolawulo omkhulu enarheni, izakuba neembopho ezilandelako ngokuphathelele nesijamiso sokubuswa kwe-NAP:

- Ukungamela ukuthintaniswa kokuphunyeleliswa kanye nokubekwe ilihlo kwe-NAP yehlelo lamagadango sele lilo ke;
- Ukungamela iqhinga elingabandlululiko lokuphunyeleliswa kwe-NAP;
- Ukungamela ukubuyezwa kwetuthuko yokuphunyeleliswa kwe-NAP leyo inarha engahlangabezana neembopho zayo zezeentjhabatjhaba ngayo;
- Ukungamela ukuthulwa kombiko wokuphunyeleliswa kwe-NAP ezingeni eliphakamileko lezopolitiki;
- Ukungamela Ukuzibophelela ekuphunyeleliseni kwe-NAP kiyo yoke iminyango karhulumente; imikhakha yangeqadi, amaZiko angaphasi kweSahlahluko se-9 somThethosisekelo, umphakathi kanye nemikhakha ehlukahlukileko, begodu
- Ukuvumela isekelo lezemali zesijamiso sokubuswa kwe-NAP.

202. Isijamiso sokubusa esihlongozliweko sizakurholwa nguNgqongqotjhe wezobuLungiswa nokuHlengwa kweSimilo ezingeni eliphakamileko lezopolitiki. Isijamiso sokubusa esihlongozliweko zizokubunjwa ngePlenari, irholwe nguNgqongqotjhe, iKomidi yokuPhunyeleliswa kwamaHlelo kanye neenQhema zemiSebenzi yobuTheknikhali. I-ofisi likanobhala wesijamiso lizakunziza ngaphakathi kwe-DoJCD.

Isijamiso sokubuswa kwe-NAP esihlongozliweko



203. Iimbopho ezihlongozliweko zeKomidi yokuPhunyenyeleliswa kwamaHlelo ehlongozliweko zizakuba ngeendlela elandelako:

- Ukubamba umhlangano qobe yikotara umnyaka woke;
- Ukuhlolisisa ukusebenza kwabadlali bendima ekuphunyeleliseni kwe-NAP;
- Ukuthula umbiko kuKhabhinedi mayelana netuthuko esele yenziwe ngokuphunyeleliswa sele kukoke kwe-NAP;
- Ukunqophisa ukungamela kwendlela yekambiso yokubekwa ilihlo kanye nokuhluzwa kwe-NAP;
- Ukuphendula imibuzo ephathelene ne-NAP;
- Ukupha umhlahlandlela ekuphunyeleliseni kwe-NAP;
- Ukuhlonywa kweenqhema zemisebenzi ukwenzela ukuqinisekisa kanye nokubekwa ilihlo kwe-NAP, begodu
- Nokuqinisekisa ukuthintaniswa kanye nokukhambisana komsebenzi weenqhema zemisebenzi yetheknikhali.

204. Kuzakuba ne-neenQhema zemiSebenzi yeTheknikhali zomongo weendawo ezilandelako ezifana ne:

- Ukuphunyeleliswa kwe-NAP;
- IsiQhema sokuSebenzisa iDatha ngeendlela zokubuthelelwa kwedatha elimayelana nezehlakalo zokuninwa ngokobuhlanga, ibandlululo lobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko, begodu

- Nokubekwa ilihlo kanye nokuHluzwa (ukubika kweentjhabatjhaba kanye nekwenarheni).
205. IinQhema zemiSebenzi yeTheknikhali azakuthula umbiko eKomidini yokuPhunyeleliswa kwamaHlelo mayela neendawo zawo zeembopho ngokulamana kwazo. Iimphakamiso zeSizo leTheknikhali ye-phrojekthi emayelana nokuhlaziywa kweendlela zokubuthelelwa kwedatha mayelana nezehlakalo zokuninwa ngokobuhlanga, ukubandlululwa ngokobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko kuqalise begodu kundlala iimphakamiso zokusekela isijamiso sokubusa esihlongoziweko.
206. Isijamiso sokubuswa kwe-NAP esihlongoziweko sizokusebenza njengengcenyekarhulumente njengombana singatlhogi ukuba ngaphasi komthetho. Okuhle ngengcenyekarhulumente kukuthi kuzokukghonakala bonyana umPhathimafa weNarha uzakuqinisekisa ukusetjenziswa ngefanelo kwesekelo lezeemali elivela emikhakheni yeminyango begodu ayidlulisele esijamisweni esibusako. Ingcenyekarhulumente izakunzinziswa ngaphakathi kwe-ofisi likangqongqotjhe eliphetheko, kodwana lisebenze ngokuhlukana nomnyango njengombana usihlalo weKomidi yokuPhunyeleliswa kwamaHlelo uzakuthula umbiko kuNgqongqotjhe. Ukungamela kusemandleni wesiPhathimandla. Ingcenyekarhulumente izakukghona nokufumana isekelo lezeemali ebanikelini ngeemali beetjhabatjhaba.
207. Abadlali bendima abahlukahlukeneko abajameleke esiJamisweni sokuBuswa kwe-NAP bazakufaka hlangana:
- Iminyango karhulumente esisekelo;
 - Imikhakha yomphakathi (iihlangano ezingasizo zikarhulumente kanye neenhlango ezinzinze emphakathini; iinqhema ezisekelako; iihlangano zezekolo; ifundo ephakamileko; zemisebenzi; umthetho kanye namalungelo wobuntu; zemidlalo; abafazi kanye nelutjha; iihlangano zabaphalali/zabafuduki/ amaphandle atlhoga ububalekelo);
 - Imikhakha (ababiki beendaba; zabasebenzi; amarhwebo);
 - AmaZiko angaphasi kweSahluko se-9 somThethosisekelo, begodu
 - Nezefundo/ amaziko werhubhululo.
208. - IGatja lokuThuthukiswa komThethosisekelo le-DOJCD, khulukhulu elinzinze ngaphakathi kwePhiko eliyiHloko lomNyango: ubuLungiswa bomPhakathi nokuzibandakanya eNtandweni yenengi, iPhiko lomNyango: lobuLungiswa bomPhakathi lizakuragela phambili nokupha isekelo lezokuphatha kanye nokuhleleka esijamisweni esitjha sokubusa begodu ukusizokho kufanele kubuyezwe ukwenzela ukuqinisekisa ukufaneleka kanye nokusekeleka ngeemali okwaneleko kwe-ofisi likanobhala ukwenzela ukusiza isibopho kanye nemisebenzi yesijamiso sokubusa, ngaphezu kwemisebenzaso eminye. IPhikweli lizakudlala indima eqakathekileko, ngesikhathi sesigaba sokuphunyeleliswa kwalokhu hlangana nokhunye -
- ukuhlela, ukusekela kanye nokuthintanisa isijamiso sokubusa esihlonziweko ukwenzela ukuqinisekisa ukuphunyeleliswa kwe-NAP;
 - ukukhuthaza kanye nokwazisa nge-NAP;

- ukukhuthaza, ukuvikela kanye nokusekela ukuqedwa kwayo yoke imihlobo yobuhlanga, ibandlululo lobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko;
- ukwezna irhubhululo ngamafekha akhandela ukutholakala kwebumbano ngobuhlanga;
- ngobubambisana nabasebenzisani abafaneleko, ukuhloma kanye nokuphumelelisa amahlelo ahlukahlukene wokusekela i-NAP;
- ukubuthelelwa/ukuhlaziya kwedatha, ukwenza iziko lebuthelelolwazi kanye nokwenza imibiko mayela nemikghwa kanye namaphetheni aphaathelene nezehlakalo eziwela ngaphakathi kwalokho okutjhejwe yi-NAP (ngokusebenzisa iSizo leTheknikhali ngaphasi kwe-SEJA);
- Ukukhuthaza amaqhinga wokurhubhulula kanye neemfundo zekhomitjhini/zehlolombono ekusekeleni i-NAP;
- ukubamba ihlolombono esisekelo (ngaphasi kwe-SEJA);
- ukubeka ilihlo imikghwa kanye nezehlakalo zokunina ngokobuhlanga, ibandlululo lobuhlanga, ukuzondwa kwamaphandle kanye nokukhambelana nakho okungabekezelelekiko;
- ukupha iimpendulo ezaneleko kilokho, ngokusebenzisa ukuthintana kanye nokukghonakalisa ngepumelelo neminyango karhulumente kanye nabasebenzisani;
- ukukghonakalisa kanye nokuthuthukisa amahlelo aphaathelene nokubekezelela kanye nokuzwisiswa ngokuhlukahlukeni okuphakathi kwabantu beSewula Afrika, begodu
- Nokuqinisekisa ukuhlonywa kwendlela ye-M&E.

209. Iinzuzo esijamisiweni sokubusa esihlongoziwako kukobana yiplenari eyodwa iqalelela ngokungamela yoke imisebenzi; kunesijamiso sinye esenza isiqunto; ukujameleka kwemikhakha eminengi kuqinisekisiwe begodu nemisebenzi yokuphatha ibuthelelwe ndawonye ngaphakathi kweyunidi eyodwa.

Iimbopho zokupha umbiko

210. Ubuziphendulelo kanye nokukhanyeka kuqakatheke khulu ekwenzeni bonyana i-NAP isebenze. Njengombana i-NAP yakhiwe ngokubambisana ekubandakanya imikhakha yomphakathi, imiphumela iyangokuthi urhulumente kanye nomphakathi basebenzisana kuhle kangani boke. Ituthuko yokubeka ilihlo kanye nokubuyisa umbiko kuzizakhi ezisisekelo epumelelweni ye-NAP. Nje-ke, iziko elinomthelela lizakuhloma iphahla lobuziphendulela. Ukwenzela ukuhlaza umthelelelayo wesikhathi eside esisezako, isijamiso sokubusa senarha ngokubambisana ne-SAHRC kanye nezinye iinjamo ezingaphasi kweeSahluko se-9 zizakubambisana ekutholakaleni kweenkomba zokubeka ilihlo ituthuko yokulwisana nokunina ngokobuhlanga. Abadlali bendima abahlukahlukeni bazakuragela phambili nokuqalana nemiraro yokuninwa ngokobuhlanga kanye neyenengi lamasiko lapho kunehanganyela yesibopho, begodu isize ekuthintaniseni ukwabiwa kwelwazi. Itjhejo elikhulu kufanele liphiwe umbiko waqobe mnyaka ekuphikiswana ngawo ngaphakathi kwesiBethamthetho seNarha.

Ukwakha Ukukhambisana namanye AmaHlelo WakaRhulumende

211. I-DOJCD, ngaphasi kokunqotjhiswa sijamiso sokubusa esihlongoziweko, izakuba nesibopho sokwakha ukukhambisana phakathi kwe-NAP kanye namanye amahlelo wamagadango asungulwe minyango karhulumende, amaZiko angaphasi kweSahluko seThoba somThethosisekelo, umphakathi kanye neminye imikhakha. Kufanele yakhe ukukhambisana phakathi kwemithetho kanye nemigomolawulo ephunyeleliswe ngurhulumende ethinta ukuninwa ngokobuhlanga, ukubandlulula kanye namagadango wokuqinisekisa athathelwa ukuqalana nelifa lesikhathi sebandlululo.

ISIPHETHO

212. ISewula Afrika ibe mkhanyo omhlahlandlela ephasini loke ngokuhlula ukuninanwa kwangokobuhlanga. I-NAP ilihlelo elidwebiweko lokwakha kilokho esele kufeziwe ukufikela ngalesi isikhathi. I-NAP ilithuba elihle lenarhethu kanye nebabantwini bayo ukwenzela bonyana sivuselele ukuzibophelela kwethu ekulwisaneni nokuninanwa ngokobuhlanga, ibandlululo langokobuhlanga, ukuzondwa kwamaphandle kanye neminye imihlobo yokuzindlekela kanye nengabekezelelekiko. ISewula Afrika ingeyabo boke abahlala kiyo – sibumbene ngokwahlukahlukana kwethu.