

IMIBANDELA YOKUSEBENZA YENDLELA EKHETHEKILEKO YEKAMBISO
YOKULIBALELA YAKAMONGAMELI MAYELANA NEZINYE
IZAPHULAMTHETHO

1. **NANYANA** kunabantu abathweswe umlandu wokwephula umthetho abakholelwa bona bekungeyokufikelela iminqopho yezombanganarha;
2. **BEGODU NANYANA** ngaphambi kokuthoma kwekambiso yomThethosisekelo omutjha begodu nangemva kwalokho, imithetho yokulitjalelwa ekuziphenduleleni ngokomthetho neyokulibalela ngokomthetho izenzo zombanganarha yenziwa imithetho begodu yasetjenziswa ukuphelisa ukuziphendulela emilandwini yezobulelesi (kobunye ubujamo bemibango) kanye/namkha nokusula ngokuzeleko ukuthweswa umlandu wobulelesi ebantwini abenze izenzo zobulelesi ngaphambi kwaka-1994 ezisukele ekungezwanini okwadlulako, [ngomnqopho wezombanganarha] emarekhodini wabo wezobulelesi, imithetho enjengomThetho wokuLitjalelwa (*i-Indemnity Act* (umThetho 35 ka-1990), umThetho oRagela Phambili wokuLitjalelwa (umThetho 15 ka-1992) kanye nomThetho wokuKhutjhlwa kokuBumbana nokuBuyisana kwesiTjhaba (*i-Promotion of National Unity and Reconciliation Act*.) ka-1995 (umThetho 34 ka-1995) (“umThetho we-TRC”), iphelelwe sikhathi begodu angeze isasetjenziselwa ukuqalana nendaba ekhona kwanjisi.
3. **BEGODU NANYANA** uMongameli atjheje zoke iinjamiliso zemithetho efaneleko, akhenge afumane amagadango akhona afaneleko wokuqalana nendaba ethileko ekhona;
4. **BEGODU NANYANA** isiGaba 84(2)(j) somThethosisekelo weRiphabhligi yeSewula Afrika ka-1996 (umThetho 108 ka-1996) njengombana utjhugululiwe ubeka bona uMongameli “**uqalene nokulibalela namkha ukusula iingwebo zezaphulamthetho kanye nokusula enye nenye ihlawulo, isijeziso namkha ukuloba**”.

5. **BEGODU NANYANA** uMongameli aveze indlela ekhethekileko ekufumaneni umuzwa wokurarulwa kwesenzo esimbi eendabeni ezikhambelana nabantu abafunyanwa bamlandu esolweni yokobona benze izenzo zokwep hulwa komthetho ekulandeleni iminqopho yezombanganarha.



MANJE NGALOKHO:**1 UKUHLONYWA KWESIQHEMA ESITJHIWOKO**

- 1.1 IsiQhema esiTjhiwoko esibunjwa bajameli beenhlangano zombanganarha siyahlonywa lapha.
- 1.2 Ekuhlaleni kokuthoma kwaso, amalunga hlangana nawo, azakukhetha uSihlalo ozakuba ngusihlalo wayo yoke imihlangano yesiQhema esiTjhiwoko.

2. IMISEBENZI YESIQHEMA ESITJHIWOKO

- 2.1 Kufumana zoke iimbawo ezihloliweko zokulitjalelwa ezibuya emNyangweni wezoBulungiswa nokuThuthukiswa komThethosisekelo (okuyi-DOJ&CD).
- 2.2 Kuqinisekisa bonyana esinye nesinye isibawo sizaliswe ngendlela ebekiweko.
- 2.3 Kutjheja esinye nesinye isibawo sokulitjalelwa kanye nokwenza iimphakamiso kuMongameli.
- 2.4 IsiQhema kufuze senze imithetho neenkambiso zaso nasitjheja esinye nesinye isibawo sokulitjalelwa ngomnqopho wokwenza iimphakamiso kuMongameli ngokususela kwesinye nesinye isibawo.
- 2.5 IsiQhema kufuze sazise i-DOJ&CD ngemithetho neenkambiso zaso kungakapheli amalanga alitjhumu nane ngemva kokuhlala kwaso kokuthoma.

3. ISEKELO LEZOKUPHATHA ELINIKELWA ISIQHEMA ESITJHIWOKO

- 3.1 I-DOJ&CD izakunikela ngesekelo lezokuphatha nobumabhalana esiQhemeni.

4. UKUHLALA KWESIQHEMA ESITJHIWOKO

- 4.1 Ukuhlala kwesiQhema kuzakuba seKapa namkha kwenye nenywe indawo njengombana kuzakuqunta isiQhema ngokubonisana ne-DOJ&CD.

5. IMIPHUMELA KWEZEEMALI

- 5.1 Akunalunga elizakurholelwa ngokusebenzela isiQhema.
- 5.2 I-DOJ&CD kuzakuba ngiyo eqalana neendleko zeensetjenziswa nezokukhamba zamalunga wesiQhema.
- 5.3 Koke ukuhlelwa kweensetjenziswa ezikhambelana nomsebenzi wesiQhema kuzakwenziwa siphathiswa esikhonjiweko esisebenza ku-DOJ&CD.

6. ISIKHATHI ESIBEKELWE ISIQHEMA ESITJHIWOKO

- 6.1 IsiQhema sizakubakhona isikhathi esithoma ngelanga lokuhlangana kokuthoma kwaso ukufika ngelanga esizakugcina ukusebenza ngalo, womabili amalanga nawabalwako, ilanga lokugcina angeze laba ngemva komhlaka 30 Septemba 2008.

7. NGUBANI OFANELEKA KUFUMANA UKULITJALELWA

- 7.1 Babantu abathweswa umlandu begodu bagwetjwa kuphela ngesolo yokobana benze isenzo sobulelesi esikhambisana nezombanganarha ngaphambi komhlaka Juni 16, 1999; begodu
- 7.2 Abakhambisana nendlela esele ibekiwe kanye neenkambiso ezibekwe eforomini lesibawo, bangenza isibawo kuMongameli bona bafumane ukulitjalelwa ngendlela ebekiweko.
- 7.3 Umuntu uzakufaneleka kuphela bona angatjhejelwa ukufumana ukulitjalelwa nayikuthi –
- (a) yena

- (i) kwanjesi uqedelela isigwebo sejele;
- (ii) wagwetjwa bona adose ejele namkha wahlawuliswa ngesenzo sokwephula umthetho esisukela namkha esikhambelana, nesenzo namkha ukutjhiya ngaphandle okuyamaniswa nomnqopho wezombanganarha esenziwe ngesikhathi sokungezwani okwadlulako;
- (b) isenzo okukhulunywe ngaso endimeni (a) senziwa ngomhlaka namkha ngaphambi kwelanga okwafungiswa ngalo uMongameli ngomhlaka 16 Juni 1999; begodu
- (c) isibawo sakhe sokulitjalelwa siphekelelwa yincwadi yesifungo etjhiwoko namkha ukuvumelana okufakazelwe namkha evunywe mumuntu ogunyazwe yihlangano, sikhungo, yihlangano yekululeko kiyo okuqinisekiswe bona isenzo namkha ukutjhiya ngaphandle ebekubumba isenzo sokwephulwa komthetho okukhulunywa ngakho, esenzeke ngaphasi komlayo namkha ekusetjenzisweni komlayo wangokomthetho, umlayo, ukulayelwa, isiyeleliso, iqhinga namkha iphrojekthi eyenzelwa namkha ngemvumo namkha yokuragelisa phambili, yokukhutjholwa namkha yokufikelwa kwemithethomgomo yehlangano etjhiwoko, isikhungo, ihlangano yekululeko namkha ihlangano umbawi alilunga layo, umsebenzeli namkha umsekeli.

8. NGUBANI ONGAFANELEKI KUFUMANA UKULITJALELWA

- 8.1 Umuntu angeze afaneleka bona angatjhejelwa ukulitjalelwa nayikuthi –
 - (a) ufunyenwe anomlandu ngesenzo sokwephulwa komthetho esikhambelana:
 - (i) nesinye nesinye isenzo sokwephulwa komthetho sezomseme;
 - (ii) nesinye nesinye isenzo sokwephulwa komthetho senturhu yangekhaya;
 - (iii) nesinye nesinye isenzo sokwephulwa komthetho okukhulunywe ngaso esigabeni 13 somThetho weenDakamizwa nokuKhukhuthiswa kweenDakamizwa ka-1992 (umThetho 140 ka-1992), esikhambelana nokwenziwa kanye nokusatjalaliswa kwezinto ezitjhiwoko, ukusetjenziswa nokuphathwa kweendakamizwa kanye nokusebenzisa iindakamizwa;
 - (b) wenza isibawo eKomitini yezokuLibalela ehlonywe ngaphasi komThetho we-TRC begodu isibawo sakhe sokulitjalelwa saliwa; begodu

- (c) akhenge **AKHAMBISANE** nazo zoke iimfuno ezibekiweko **ngomhlaka namkha ngaphambi komhla** weenyanga ezintathu wokuphela “kwesikhathini esivuliweko”.

9. UKWENZIWA KWESIBAWO

- 9.1 Ziimbawo kuphela ezizaliswe kuhle nangokuzeleko ngendlela ebekiweko, kufaka eforomini elibekiweko elenzelwe lomnqopho wefuneko, esikhathini ‘esivuliweko’, ezizakutjhejwa.
- 9.2 Sibawo kuphela esenziwe mumuntu esizakutjhejwa. Isibawo kufuze senziwe mbawi njengombana kubekiwe begodu silethwe emNyangweni wezoBulungiswa nokuThuthukiswa komThethosisekelo.
- 9.3 Isiqhema sezombanganarha umbawi alilunga laso singaletha saso isibawo emNyangweni wezoBulungiswa nokuThuthukiswa komThethosisekelo ukwenzela yena.
- 9.4 Lapho isibawo silethwa yihlangano yezombanganarha yenzela umbawi, ihlangano kufuze:
- 9.4.1 iqinisekise bona isibawo sizaliswe ngendlela ebekiweko;
- 9.4.2 iqinisekise ngesifungo bona ubujamo obuyizwabatjho okwenziwa ngaphasi kwabo isenzo sokwepulwa komthetho bulungile namkha bukhambisana nezehlakalo zombanganarha/izenzo ihlangano eyayizibandakanya kizo.

10. IIMPHAKAMIZO EZENZIWE SIQHEMA ESITJHIWOKO

- 10.1 Zoke iimphakamiso ezenziwe mayelana neembawo zokulitjalelwa kufuze zilethwe kuMongameli.
- 10.2 Isiphakamiso esenziwe siQhema esiTjhiwoko sizakwenziwa mayelana nesinye nesinye isibawo sokulitjalelwa.

- 10.3 Isiphakamiso esenziwe siQhema esiTjhiwoko mayelana nesinye nesinye isibawo sokulitjalelwa kufuze siveze inengi kanye nobuncani bemibono yamalunga, nayikuthi ikhona, mayelana nesibawo ngasinye.
- 10.4 UMongameli unamandla wokwala iimphakamiso ezenziwe siQhema esiTjhiwoko

11. AMANDLA WOKUNIKELA NGOKULITJALELWA

- 11.1 UMongameli ngemva kokutjheja iimphakamiso ezenziwe siQhema esiTjhiwoko, unamandla wokunikela ngokulitjalelwa namkha wokwala isibawo sokulitjalelwa.
- 11.2 Akunamuntu onelungelo lokulitjalelwa nguMongameli.
- 11.3 Ukunikelwa kokulitjalelwa komunye nomunye umuntu kuzakudosela ekusulweni ngokuzeleko kokutheswa umlandu kanye nerekhodi lezobulelesi lesenzo sobulelesi mayelana nalo umuntu anikelwe ukulitjalelwa.

Imibuzo:

Nomzana Neville Gawula

Director: Office of the Chief Litigation Officer

UmNyango wezoBulungiswa nokuThuthukiswa komThethosisekelo.

(i-Department of Justice and Constitutional Development)

Umtato: (012) 357 8573

Umaliledinini: 082 466 8968