ISITHASISELO B

IMEMORANDAMU EPHATHELENE NEZINJONGO ZESICHIBIYELO SOMTHETHOSIVIVINYWA WEZINGANE, 2020

1. INJONGO YESICHIBIYELO SOMTHETHOSIVIVINYWA

ISichibiyelo soMthethosivivinywa Wezingane uhlose-

(a) Ukuchibiyela uMthetho Wezingane ukuqinisa izindlela zokuvikela izingane.

(b) Ukulungisa izikhala ezibucayi nezinselelo ohlelweni oluyisisekelo lokunakekelwa kwezingane nokuhlonza amasu okubhekana nalezi zinselelo ngendlela efanelekile nangempumelelo.

(c) Ukufaka isandla ekuxazululeni inkinga yezomthetho ephelele njengoba kuyalelwe yiNkantolo eNkulu yaseGauteng ePitoli ecaleni le-*Child Law v Minister of Social Development* (Case No: 72513/2017) ukubhekana nezinselelo ezimayelana nokuhlinzekwa kanye nokuphathwa kokunakekelwa kwezingane ezingenabazali.

INkantolo Ephakeme mhlazingama-28 kuLwezi wezi- 2017, yayalela uNgqongqoshe phakthi kokunye, ukuthi alungiselele futhi ethule phambi kwePhalamende, izichibiyelo ezidingekayo kuMthetho Wezingane wama-38 wezi-2005 ("uMthetho Wezingane") kanye noMthetho Wokusizwa koMphakathi ongunombolo 13 wezi-2004 futhi ukwenza lokho esikhathini eziyi-15 kusukela ngosuku Lomyalelo weNkantolo ukuze kuvezwe isixazululo esiphelele sezomthetho maqondana nohlelo lokunakekela kwezingane ezingenabazali.

Isikhathi sezinyanga eziyi-15 okukhulunywe ngaso kumyalelo wenkantolo saphela mhlazingama-26 kuNhlolanja wezi-2019.

Ngaphezulu kwalokho inkantolo yayalela ukuthi noma yimuphi umyalo wokunakekelwa kwezingane ezingenabazali, njengokosuku lomyalelo, usekhona noma usuphelelwe yisikhathi ngenxa yokungabi bikho kuzothathwa njengokufanelekile ukusebenza izinyanga ezingama-24 kusukela osukwini lomyalelo noma kuze kube ingane, ngokuya komyalelo iba neminyaka eyi-18, kuye ngokuthi yikuphi okufika kuqala. Mhla zingama-26 kuLwezi wezi-2019, iNkantolo Ephakeme yelula umyalelo wokuqala wangonyaka wezi-2017 isikhathi esiyizinyanga eziyi-12 futhi yayalela uNgqongqshe ukuba acele iPhalamende ukuthi lisheshise inqubo yokucubungula nokwethulwa kwesichibiyelo soMthetho Wezingane.

2. IZINJONGO ZOMTHETHOSIVIVINYWA

UMthethosivivinywa wethula izichibiyelo ngale ndlela elandelayo:

2.1 **Umshwana 1** uhlose ukuchibiyela isigaba 1 soMthetho oyinhloko ngokufaka esikhundleni nokufaka izincazelo ezintsha okusho ukuthi, “izikhungo zokufundiswa kwezingane zisencane”; “umeluleki womndeni”, “ukutholelwa kwezingane amakhaya amasha okuphakathi kwamazwe amabili”, “inkantolo yesifunda”, “ingane yofuduko ehlukanisiwe nabazali” “nengane encane ehamba yodwa”. Lokhu kuzohambisana noMthetho oyinhloko nenkambiso yamanje yomthetho wezomndeni nowezingane.

2.2 **Umshwana 2** uhlose ukuchibiyela isigaba-6 nokwethula umqondo wendawo efinyelelekayo ukukhuthaza nokuvikela izidingo zezingane ezikhubazekile.

2.3. **Umshwana 3** uhlose ukufaka isigaba 6A esihlinzeka ukuvikelwa kwamalungelo engane ekubeni nemfihlo nolwazi nengasese.

2.4 **Umshwana 4** uhlose ukuchibiyela isigaba sesi- 7 ngokubhekisa "kunoma yiziphi izidingo ezikhethekile ingane engaba nazo”. Inhloso ukudala izimo zokunquma ezengeziwe, noma nini lapho noma ukuhlinzekwa eMthethweni kudinga ukuthi kusetshenziswe izimfuno ezinhle zokuhlola ingane – izidingo ezikhethekile zengane kufanele zibhekwe.

2.5 **Umshwana 5** uhlose ukuchibiyela isigaba sesi-8 ngokusho ngokusobala ukuthi loMthetho usebenza kuzo zonke izingane eziseNingizimu Afrika ukuze kungabikho bunzima bokuhumusha nokuthi abasebenzisi boMthetho bazokwazi ukuthi izingane zifaka nezingezona izakhamizi.

2.6 **Umshwana 6** uhlose ukuchibiyela isigaba se-12 okuhloswe ngaso ukuqondanisa ukunqunywa kwezitho zangasese nalencazelo entsha. Lesi sigatshana siqhubeka nokuvimbela noma yikuphi ukushadiswa kwengane.

2.7 **Umshwana 7** uhlose ukuchibiyela isigaba 13 futhi kuhloswe ngalo ukuqondanisa uMthetho Wezingane okufaka nohlelo lwamagama emukeleka emhlabeni wonke kubandakanya uhlelo lwamagama kwiNhlangano yeZizwe Ezihlangene ngamaLungelo Ezingane kanye noMthetho Osahlongozwa omayelana NamaLungelo Abantu Abakhubazekile.

2.8 **Umshwana 8** uhlose ukuhlinzekela ukufakwa esikhundleni kwesihloko sengxenye yoku-1 yeSahluko sesi- 3 “sokutholwa ngokuzenzekelayo kwezibophezelo zomzali”. Lesi sichibiyelo kuhloswe ngaso ukuthi sihambisane

nohlelo lwamagama kanye nokutholwe yiNkantolo yoMthethosisekelo odabeni luka-*Fraser vs Naude and Another* (CCT14/98)1998 ZACC 13, 1991(1) SA olwaqinisekisa amalungelo abazali abangashadile uma ingane isithathwa abazali abangayizali ngokwegazi.

2.9 **Umshwana 9** uhlose ukuchibiyela isigaba 19 ngenhloso yokunikeza ukucaciseleka ngokuphathelene ngokunakekelwa kanye nezibophezelo zokuba umzali eziphathelene nobaba wengane oyizalayo.

2.10 **Umshwana 10** uhlose uku –

(a) ukuchibiyela isigaba 21 ngokuhlinzeka incazelo ephathelene nobaba ongashadile nomama ayehlala naye nanoma yisiphi isikhathi phakathi kwesikhathi sokukhulelwa noma sokuzalwa kwengane. Uzothola ngokuzenzekelayo izibophezelo zokuba umzali namalungelo maqondana nengane;

(b) ukuqhubeka nokucacisa izimo ubaba angathola ngaphansi kwazo izibophezelo zokuba umzali kanye namalungelo aphathelene nengane;

(c) ukuchibiyela isigaba 21 ngokufaka isigatshana 1A, ukuze kucaciswe ukuthi uMmeli Womndeni, ngendlela enqunyiwe, angakhipha isitifiketi esiqinisekisa ukuthi ubaba omzalayo uthole izibophezelo zomzali kanye namalungelo ngokugcwele ngokuzenzekelayo okuphathelene nengane;

(d) ukuqondanisa amagama noma izincazelo zamanje njengalokhu, umsebenzi wezenhlalakahle;

(e) ukuphinde ususe isigatshana sesi- (3) *(b)* ehlinzeka ngokuthi noma yimuphi oyingxenye ekulamuleni angadlulisa umphumela wokulamula uyobuyekezwa yinkantolo.

2.11 **Umshwana 11** uhlose ukufaka iNgxenye 1A entsha. Lesi sichibiyelo kuhloswe ngaso ukuqoqela ndawonye izigaba ezibhekele ukutholwa kanye nokulahlekelwa yizibophezelo namalungelo omzali.

2.12 **Umshwana 12** uhlose ukuchibiyela isigaba 22–

(a) ngokufaka isigatshana emva kwesigatshana 2. Lesi sichibiyelo kuhloswe ngaso ukuthi sinikeze ingane engaphansi kwesivumelwano sezibopho namalungelo okuba umzali, uma ineminyaka eyanele, ukukhula kanye nesigaba sokukhula, ithuba lokuveza imibono yayo maqondana nokuqukethwe yileso sivumelwano;

(b) ngokufaka esikhundleni sezindima 4(a) no (b) Lesi sichibiyelo kuhloswe ngaso ukubhekelela isicelo esinqunyiwe, okungukuthi; ukuze izibopho zomzali nezivumelwano zamalungelo zibhaliswe nommeli womndeni futhi kufakwe esikhundleni sokukhuluma ngenkantolo yesehlukaniso inkantolo yesifunda;

(c) ngokuchibiyela isigatshana (6). Lesi sichibiyelo sihlose ukucacisa ukuthi izibophezelo zomzali nezivumelwano zamalungelo, ezibhaliswe ngummeli womndeni, zingachitshiyelwa nona zinqanyulwe ngendlela ebhalisiwe;

(d) ngokususa isigatshana (7).

2.13 **Umshwana 13** uhlose ukuchibiyela isigaba 23 –

(a) ngokufaka esikhundleni okukhuluma ngenkantolo yesahlukaniso kufakwe inkantolo yesifunda;

(b) ukufaka phakathi ukuthi abantintekayo kufanele bazise inkantolo nganoma iyiphi enye inqubo esalindwe kwenye inkantolo.

2.14 **Umshwana 14** uhlose ukuchibiyela isigaba 25 futhi uhlose ukuqinisekisa ukuthi lapho isakhamuzi esingesona isaseNingizimu Afrika saifaka isicelo sokunakekelwa kwengane, uma isicelo silalelwe eNkantolo Ephakeme, kufanele sibuyselwe enkantolo yezingane enegunya elizothathwa njengesicelo sokufunela ingane indawo phakathi kwamazwe amabili.

2.15 **Umshwana 15** uhlose ukuchibiyela isigaba 28 ngokufaka esikhundleni okukhuluma ngenkantolo yesahlukaniso inkantolo yesifunda.

2.16 **Umshwana 16** uhlose ukuchibiyela isigaba 29 ngalokhu-

(a) ukufaka esikhundleni okukhuluma ngenkantolo yesahlukaniso inkantolo yesifunda; kanye

(b) nokuchibiyela isigaba 29 ngokufaka isigatshana 1A esisha. Lesi sichibiyelo sihlose ukunquma ukuthi noma yimuphi umuntu oyingxenye yesicelo sesivumelwano samalungelo nezibophezelo zomzali, ngokulandela umthetho, angadlulisela lolu daba kuMmeli Womndeni ukuze kwenziwe uphenyo.

2.17 **Umshwana 17** uhlose ukufaka isigaba 30A esisha esifuna ukubhekana nodaba lapho ingane ihlala khona.

2.18 **Umshwana 18** uhlose ukususa isihloko esithi "Izinhlelo zokuba Umzali". Lesi sichibiyelo uhlose ukuthi kuhambisane izichibiyelo ezenziwe kwiNgxenye 1A.

2.19 **Umshwana 19** uhlose ukuchibiyela isigaba 34 ngokufaka isigatshana (4A) esisha ukuze isicelo esifakwe yilabo abanezibophezelo nezivumelwano zomzali ngokubambisana ukuze kuchitshiyelwe noma kuyekwe isu lomzali kwenziwe ngohlobo nangendlela ebekiwe.

20. **Umshwana 20** uhlose ukuchibiyela isigaba 35 ngaloku –

(a) ukuchibiyela amatemu aphelelwe yisikhathi;

(b) ukuhlinzeka ukuthi umzali ophatheke kabi ngomunye umzali owenqaba ukuvumela lowo mzali ukuthi axhumane nengane, okuphambene nomyalelo wenkantolo, izibophezelo zomzali nezivumelwano zamalungelo, noma uhlelo lomzali, kufanele afune usizo;

(c) ukuhlinzekela ukufakwa kohlelo lomzali.

21. **Umshwana 21** uhlose ukuchibiyela isihloko sesigaba 40 kanye nokulungisa uhlelo lwamagama ukuze luhambisane nenqubo yamanje yomndeni kanye nomthetho wezingane.

2.22 **Umshwana 22** uhlose ukufaka isigaba 41A esisha, sinika uNgqongqoshe wezobuLungiswa kanye nokuThuthukiswa koMthethosisekelo, amandla okushaya

imithetho maqondana nezindaba ezibaliwe ngaphansi kwalesi sahluko, ngemuva kokubonisana noNgqongqoshe.

2.23 **Umshwana 23** uhlose ukuchibiyela isigaba 44 ukuhlinzekela amandla enkantolo, lapho udaba ludluliswa lususwa enkantolo eyodwa yezingane luye kwenye, ngokuhambisana nenqubo ebekiwe futhi uma ibhekela okudingwa yingane.

24. **Umshwana 24** uhlose ukuchibiyela isigaba 45-

(a) ngokwengeza amandla enkantolo yezingane ukuze ifake "ukunakekelwa kwengane eyintandane noma ingane elahliwe";

(b) ngokukhipha izindaba ezivela endaweni yokukhusela ngokwegunya lenkantolo yezingane;

(c) ngokufaka ingane ehamba yodwa noma ingane yokufuduka ehlukaniswe nabazali, noma ingane yomuntu ofuna ukukhoseliswa, noma umbaleki, njengoba kuhlongozwe kuMthetho Wababaleki, we-1998 (UMthetho owuNombolo 130 we- 1998) ngaphansi kwegunya lezinkantolo zezingane;

(d) ngokwengeza amandla enkantolo yezingane yokudlulisa noma yiluphi udaba lobugebengu oludalwa ukungathobeli umyalo waleyo nkantolo noma icala elibhekene nanoma yiliphi icala elihlongozwe esigabeni 305 enkantolo yobugebengu enamandla okulawula;

(e) ngokususa konke okukhuluma ngezinkantolo zesahlukaniso nokucacisa ukuthi inkantolo yezingane kanye neNkantolo Ephakeme zinegunya ekunakekelweni kwengane. INkantolo Ephakeme, inkantolo yezingane kanye nenkantolo yesifunda zinamandla okunika, okusebenzisa, ukwelula, ukuvimbela, ukumisa noma ukuqeda ukunakekelwa kwengane.

2.25 **Umshwana 25** uhlose ukuchibiyela isigaba 46 ngokwengeza uhlu lwemiyalelo ethile inkantolo engayenza.

2.26 **Umshwana 26** uhlose ukuchibiyela isigaba 49 ngokufaka esikhundleni segama elithi “uchwepheshe wezenhlalakahle” ngegama elithi "umsebenzi wezenhlalakahle”.

2.27 **Umshwana 27** uhlose ukuchibiyela isigaba 52 ngokubeka ngokusobala ukuthi iMithetho yeBhodi yeziNkantolo zoMthetho kumele yenze imithetho ephathelene nenkantolo yezingane futhi ifake uLimi Lwezandla nenkulumo kanye nabahumushi bokuthinta abazosetshenziswa ukuqinisekisa ukuthi izidingo zabantu abanokukhubazeka ziyavikelwa.

2.28 **Umshwana 28** uhlose ukuchibiyela isigaba 57 futhi ziyizichibiyelo ezingaba nomphumela othile ukuze kuqinisekiswe ukungaguquguquki kwamagama.

2.29 **Umshwana 29** uhlose ukuchibiyela isigaba 62 futhi ziyizichibiyelo ezingaba nomphumela othile ukuze kuqinisekiswe ukungaguquguquki kwamagama.

2.30 **Umshwana 30** uhlose ukuchibiyela isigaba 63 ngokufaka umeluleki womndeni ohlwini lwabantu okuvela kubo umbiko obhaliwe othathwa njengobufakazi obungemukeleka. Lesi sichibiyelo sihlose ukuchaza ukuthi umeluleki womndeni anganikeza umbono ngezimo zengane futhi akhiphe umbiko ongamukeleka

enkantolo njengobufakazi.

2.31 **Umshwana 31** uhlose ukuchibiyela isigaba 66 futhi yisichibiyelo esingaba nomphumela othile ukuze kuqinisekiswe ukungaguquguquki kwamagama futhi siyicichibiyelo esibalulekile ukuze sibhekiswe esigabeni 6A esisha.

2.32 **Umshwana 32** uhlose ukususa isigaba 74 njengoba singadingekile ngenxa yokufakwa kwesigaba 6A esisha.

33. **Umshwana 33** uhlose ukuchibiyela isigaba 75 ngalokhu -

(a) ukwengeza indima (1) (*b*A). Isichibiyelo kuhloswe ngaso ukunika uNgqongqoshe amandla okwenza imithethonqubo maqondana nenqubo yokunquma iminyaka yengane;

(b) ngokususa igama “futhi" ekugcineni kwendima (1) (*j*) bese kufakwa indima (1) (*jA*) entsha. Isichibiyelo sihlose ukunika uNgqongqoshe amandla okwenza imithethonqubo maqondana nomsebenzi wokukhokha izindleko eziphathelene nemibiko ehlongozwe esigabeni 62.

2.34 **Umshwana 34** uhlose ukuchibiyela isigaba 76 ngokubandakanya okukhuluma ngabaqaphi nokuhlinzeka ngokubhaliswa kwendawo yokunakekela okwesikhashana esinqunyiwe ngaphansi kwesigaba 80 uma kunezingane ezingaphansi kweziyisi -6.

2.35 **Umshwana 35** uhlose ukuchibiyela isigaba 78 ngalokhu-

(a) ukususwa kwamagama angadingekile nokufakwa kwesigatshana (3A) esisha esivumela ukuxhaswa ngezimali kwesikhungo sokunakekela isikhashana

esinqunyiwe esibhaliwe ngaphansi kwemibandela naphezu kokuthotshelwa okuncane ngokwenkambiso namazinga kazwelonke anqunyelwe ukuthola uxhaso. Lesi sichibiyelo siyadingeka ukuvumela iNhloko yesiFundazwe yeNtuthuko yezeNhlalakahle ukuthi inikeze ukusekelwa kwendawo yokunakekela isikhashana esinqunyiwe ebhaliswe ngaphansi kwezimo ezithile ukuze ikwazi ukuhambisana nemikhuba namazinga kazwelonke ukuze ithole isimo sokubhaliswa ngokugcwele;

(b) ukuchibiyela isigatshana (4) ukuze uNgqongoshe Wesifundazwe akwazi ukubeka eqhulwini ukuxhaswa ngezimali kwezikhungo zokunakekela isikhashana esinqunyiwe njengoba kuchaziwe;

(c) ukuchibiyela isigatshana (4) indima *(a)* ukuchaza ukuthi uNgqongoshe Wesifundazwe angabeka phambili futhi axhase ngezimali amawadi ahlonzwe njengantulayo.

2.36 **Umshwana 36** uhlose ukuchibiyela isigaba 79-

(a) ngokususwa kwegama "isisekelo" ngaphambi kokungenelela kokwelapha ukuze kususwe noma yimiphi imibono eyiphutha mayelana nokuthi kusho ukuthini ukungenelela okuyisisekelo kokwelapha;

(b) ngokufaka esigatshaneni (4) samagama “nezidingo zokusebenza". Lokhu kucacisa ukuthi indawo yokunakekela isikhashana esinqunyiwe inganikela ngezinhlelo ezifanele izidingo zentuthuko nezisebenzayo zezingane ezikuleso sikhungo, kufaka phakathi izingane ezikhubazekile nezifo ezingamahlalakhona.

2.37 **Umshwana 37** uhlose ukuchibiyela isigaba 81 ngokususa okukhuluma ngesicelo sokubhaliswa okunemibandela nokubhaliswa kokubuyiselwa. Lesi sichibiyelo kuhloswe ngaso ukuthi sisuse konke ukucatshangelwa kwesicelo

esinemibandela.

2.38 **Umshwana 38** uhlose ukuchibiyela isigaba 82 ngaloku-

(a) ukufaka esikhundleni sesigatshana (4) ukuze kususwe okukhuluma ngokubhaliswa kochwepheshe wezenhlalakahle kanye nokubhaliswa okunemibandela. Isizathu salesi sichibiyelo ukuqinisekisa ukusetshenziswa okungaguquguquki kwegama elithi umsebenzi wezenhlalakahle nokususa konke okukhuluma ngesicelo sohlelo lokufaka isicelo okunemibandela;

(b) ukufaka esikhundleni sesigatshana (5) ukuhlinzekela uNgqongqoshe Wezokuthuthukiswa koMphakathi Wesifundazwe (MEC) ukusiza umuntu osebenzela indawo yokunakakela isikhashana esinqunyiwe, onokubhaliswa okunemibandela, ukuze ahambisane namaqophelo namazinga kazwelonke anqunyiwe ahlongozwe esigabeni 94 kanye nezinye izidingo ezingabekwa. Ukuchibiyela kuyadingeka ukusiza izikhungo ezibhaliswe ngokungaphelele ngaphansi kwemibandela ukuze zithobele izinkambiso namazinga kazwelonke ukuze zithole isimo sokubhaliswa ngokugcwele.

2.39 **Umshwana 39** uhlose ukuchibiyela isigaba 83 ukubalula imibandela ephathelene zokunakekela isikhashana esinqunyiwe Kanye nezinsizakalo okumele zilandelwe uma ufaka isicelo sokubhaliswa.

2.40 **Umshwana 40** uhlose ukuchibiyela isigaba 85 ngokwengeza isigatshana (5) esisha ukuhlinzekela amanye amalungiselelo enzelwa izingane ezisesikhungweni esijutshwe ukuthi siyeke ukusebenza.

2.41 **Umshwana 41** uhlose ukuchibiyela isigaba 87 ukuhlinzekela ukuqapha izikhungo zokunakekela isikhashana esinqunyiwe.

2.42 **Umshwana 42** uhlose ukuchibiyela isigaba 88 ngokwenza izichibiyelo ezingaba nemiphumela ethile ephathelene namagama noma amabinzana achaziwe.

2.43 **Umshwana Isigatshana 43** uhlose ukuchibiyela isigaba 89 ngokubhekisa kwisigaba 110(5) lapho kubikwa isigameko. Lesi sichibiyelo siyadingeka ukuvumela ukuvikelwa kwengane ngokuqinisekisa ukuphepha nenhlalakahle yengane, ukuhlolwa nokuphenywa kombiko kanye nokuqaliswa kwamacala okuvikela ingane.

2.44 **Umshwana 44** uhlose ukuchibiyela isigaba 90 ukuvumela uNgqongqshe ukuba enze imithethonqubo maqondana nokuhlolwa kanye nokuqashwa kwezikhungo zokunakekelwa zokunakekela isikhashana esinqunyiwe kanye nezinsizakalo kanye nokwabiwa kwemisebenzi komasipala.

45. **Umshwana 45** uhlose ukuchibiyela isigaba 91 ngokufaka esikhundleni

sencazelo ngokufundiswa kwezingane zisencane ukuze ifake phakathi ukuhlinzekwa kwezingane ezinokukhubazeka kanye nokuchibiyela isigatshana (3) ukuhlinzekela ngokunqunywa kwezinhlelo izikhungo zokufundiswa kwezingane zisencane.

46. **Umshwana 46** uhlose ukuchibiyela isigaba 92 ngalokhu-

(a) ukufaka isigatshana esisha lapho uNgqongqoshe kufanele, ngemuva kokubonisana nabanye oNgqongqoshe abathintekayo, ababambiqhaza abafanele kanye nezinhlangano zomphakathi ezifanele, asungule isu elibanzi lika zwelonke elihlose ukuvikela ukufundiswa kwezingane zisencane okuhlinzekwe ngemithombo efanele, ehlelelekile futhi ebandakanya zonke izingane. Ngaphezulu kwalokho oNgongqoshe beziFundazwe kufanele baqinisekise ukuthi amasu abo ezifundazwe abandakanya wonke umuntu futhi ahlinzekela izingane ezinokukhubazeka nezidingo ezikhethekile;

(b) ukuchibiyela isigatshana (2) (*a*) ukuthi uNgqongqoshe Wezokuthuthukiswa Komphakathi Esifundazweni agcine irekhodi lezinhlelo ezibhalisiwe izikhungo zokufundiswa kwezingane zisencane esifundazweni lapho lapho kukhulunywa khona ngqo ngezinhlelo ezibandakanya bonke abantu.

2.47 **Umshwana 47** uhlose ukuchibiyela isigaba 93 ngalokhu–

(a) ukufaka isigatshana (3A) esihlinzeka ukuthi uhlelo lokufundiswa kwezingane zisencane, lokukhuliswa kwezingane zisencane olubhaliswe ngaphansi kwemibandela lungkulungele ukuthola uxhaso ngaphandle kokulandela nje ingxenye yezinkambiso namazinga kazwelonke anqunyiwe. Ukuchibiyela kuyadingeka ukuze kusize izinhlelo zokufundiswa kwezingane zisencane ezibhaliswe ngaphansi

kwemibandela ukuze zithobele izinkambiso namazinga kazwelonke ukuze kutholakale ukubhaliswa okugcwele;

(b) ukuchibiyela amagama esigabeni (4) endulela isigaba *(a)* ukuhlinzekela ukuthi uNgqongqoshe Wesifundazwe angabeka eqhulwini futhi axhase uhlelo okufundiswa kwezingane zisencane kumawadi amenyezelwe njengantulayo. Lesi sichibiyelo sihlose ukusiza ukubekelela kahle izindawo ezingabhekelelwa kahle nezintulayo ukuze kunikezwe futhi kuxhaswe ngezinhlelo zokufundiswa kwezingane zisencane zokukhulisa izingane zisencane;

(c) ngokufaka indima (aA) emuva kwesigatshana (4) *(a)* ukuhlinzekela ukuthi ukuxhaswa kohlelo lwezingane ezisencane kungabekwa eqhulwini ezindaweni zasemakhaya;

(d) kanye nokuthi uMnyango, uMnyango Wesifundazwe Wezokuthuthukiswa Komphakathi noma umasipala angahlinzeka ngezinhlelo zokufundiswa kwezingane zisencane.

48. **Umshwana 48** uhlose ukuchibiyela isigaba 94 ukufaka ukuthi amaqophelo namazinga afake phakathi igama 'ukuvikela' lapho kunakekelwa izinganne nokuthi amaqophelo namazinga kufanele ahlinzeke iziqu ezifanele, amakhono nokuqeqeshwa okudingekayo efundiseni izingane ezisencane.

2.49 **Umshwana 49** uhlose ukuchibiyela isigaba 96 ngokwenza izichibiyelo ezingaba nomphumela othile ukuze zivumelana nencazelo ngokufanele.

2.50 **Umshwana 50** uhlose ukuchibiyela isigaba 98 futhi ayizichibiyelo ezingaba nomphumela othile.

2.51 **Umshwana 51** uhlose ukuchibiyela isigaba 100 ngokuhlinzeka ukuthi umuntu ohlinzeka ngohlelo lokufundisa izingane zisencane futhi oyalelwe ukuthi ayeke ukuhlinzekwa kohlelo, kumele aqinisekise ukuthi wazisa abazali bengane ethintekayoukuthi benze amalungiselelo amanye.

2.52 **Umshwana 52** uhlose ukuchibiyela isigaba 102 ngokuhlinzeka ngemibandela lapho uNgqongqoshe wezokuThuthukiswa koMphakathi Wesifundazwe anganikezela ukusebenza kweminye noma yonke imisebenzi kuMphathi kamasipala kanye nokwenza izichibiyelo ezingaba nomphumela othile.

2.53 **Umshwana 53** uhlose ukuchibiyela isigaba 103 ukuhlinzekela ukumiswa noma ukwesulwa kokubhaliswa, amandla okulawula izinhlelo zokufundiswa kwezingane zisencane, ukufaka isikhalazo ukuhlolwa nokuqapha izinhlelo kanye nokwabiwa kwemisebenzi komasipala.

2.54 **Umshwana 54** uhlose ukufaka isihloko esisha iNgxenye **II** okuyizikhungo zokufundiswa kwezingane zisencane.

2.55 **Umshwana 55** uhlose ukufaka inqubo yokubhalisela izikhungo zokufundiswa kwezingane zisencane kanye nezindaba ezihlobene: 103A-103M. Sihlinzekela ukuthi kubhaliswe isikhungo zokufundiswa kwezingane zisencane; ukuhlinzekwa kwezikhungo zokukhulisa izingane zisencane; amaqophelo namazinga kazwelonke ezikhungo zokufundiswa kwezingane zisencane ; ukufaka isicelo sokubhalisa nokuvuselela ukubhaliswa kwezikhungo zokufundiswa kwezingane zisencane; ukucutshungulwa kwesicelo; imibandela yokubhaliswa kwezikhungo zokufundiswa

kwezingane zisencane; ukwesulwa kokubhaliswa; isazaso sokuqalisa; isikhalazo nokubuyekezwa kwezinqumo ezithile; irekhodi, ukuhlolwa kanye nokuhlinzekwa kwesikhungo sokufundiswa kwezingane zisencane; ukunikezelwa kwemisebenzi kumasipala; ukulimala kabi, ukuhlukunyezwa noma ukufa kwengane esikhungweni sokufundiswa kwezingane zisencane nemithethonqubo yezindaba zokukhuliswa kwengane isencane.

2.56 **Umshwana 56** uhlose ukuchibiyela isigaba 105 ngokuhlinzeka ngokuthi uMnyango kufanele ukuthi uqinisekise ukuthikwenziwa inqubo yokuqinisekisa ikhwalithi, ngendlela nangezikhawu njengoba kunqunyiwe, maqondana nezinsiza zokuvikeleka izingane elindelwe kulesi sigaba.

2.57 **Umshwana 57** uhlose ukuchibiyela isigaba 106 ngokuhlinzeka izichibiyelo ezincane zobuchwepheshe nokwengeza amabinzana athi "izinsizakalo zokuvuselela izingane ezinokukhubazeka" kanye "nokuqinisekiswa kwekhwalithi".

2.58 **Umshwana 58** uhlose ukuchibiyela isigaba 107 ngokuhlinzeka ukuthi uMqondisi-Jikelele angaqoka inhlangano efanelekile ehambisana nenqubo ebekiwe njengenhlangano yokuvikela izingane ukwenza konke noma yiziphi izinsizakalo ezithile zokuvikela izingane eziqokiwe.

2.59 **Umshwana 59** uhlose kuchibiyela isigaba 109 ngokuhlinzekela izindaba ezinganqunywa.

2.60 **Umshwana 60** uhlose ukuchibiyela isigaba 110 ngokufaka “isikhulu senkantolo", "isikhulu esiqashwe uMnyango Wezasekhaya", "ikhansela lesigceme"

noma "yimuphi umuntu osebenza nezingane"ohlwini lwabantu okufanele babike ingane ehlukunyeziwe noma enganakiwe noma ingane edinga ukunakekelwa.

2.61 **Umshwana 61** uhlose kuchibiyela isigaba 111 ngokufaka isigatshana (3) esisha esidinga ukuthi uMqondisi-Jikelele aqoke isikhulu ngaphakathi eMnyangweni ukuba sibe uMbhalisi weRejista kaZwelonke Yokuvikelwa Kwezingane.

2.62 **Umshwana 62** uhlose kuchibiyela isigaba 114 ngokwenza izichibiyelo ezincane ezingaba nomphumela othile ohambelana namagama.

2.63 **Umshwana 63** uhlose ukuchibiyela isigaba 117 ngokwenza izichibiyelo ezingaba nemphumela ethilengaphansi kwesigaba 111.

2.64 **Umshwana 64** uhlose ukufaka isigaba 117A ukuhlinzekela inqubo yokususwa kwegama eNgxenyeni A ye-Rejista.

2.65 **Umshwana 65** uhlose ukuchibiyela isigaba ukuchibiyela isihloko. Isihloko sichitshiyelwe ukucacisa ukuthi iNgxenye B yeRejista kaZwelonke Yokuvikelwa Kwezingane iphathelene nabantu abangafanele ukusebenza nezingane.

2.66 **Umshwana 66** uhlose ukuchibiyela isigaba 119 ngokufaka isigatshana (2) esisha esingabandakanyi abantu, ababeyizingane ngesikhathi kwenzeka icala elenziwa kwenye ingane, ngokuya kwemibandela yokusebenza kwezigaba 120 kuya 128 soMthetho.

2.67 **Umshwana 67** uhlose ukuchibiyela isigaba 122 ngokwenza izichibiyelo

ezithile ezingaba nomthelela othile.

2.68 **Umshwana 68** uhlose ukuchibiyela isigaba 123 ngokwenza izichibiyelo ezincane ezingaba nomthelela othile ukuze amagama ahambelane nezincazelo.

2.69 **Umshwana 69** uhlose ukuchibiyela isigaba 124 ngokwenza izichibiyelo ezincane ezinomthelela othile

2.70 **Umshwana 70** uhlose ukuchibiyela isigaba 125 ngokufaka uMbhalisi kwiRejista KaZwelonke Yokuvikelwa Kwezingane njengomuntu ongafinyelela kwiNgxenye B yeRejista.

2.71 **Umshwana 71** uhlose ukuchibiyela isigaba 126 ngokwenza izichibiyelo ezincane zobuchwepheshe nezibalulekile ukuze zihambelane nencazelo yamagama.

2.72 **Umshwana 72** uhlose ukuchibiyela isigaba 127 ngokwenza izichibiyelo zobuchwepheshe ezingaba nomthelela othile nokuhlinzeka ngokuthi uMbhalisi kufanele azise umuntu otholakele engafanele ukusebenza nezingane ukuthi igama lalowomuntu nemininingwane yakhe kufakwe kwiNgxenye B yeRejista kungakapheli izinsuku ezingama-21 zokusebenza efakiwe.

2.73 **Umshwana 73** uhlose ukuchibiyela isigaba 128 ukuze kwenziwe izichibiyelo ezincane ezinomthelela.

2.74 **Umshwana 74** uhlose ukuchibiyela isigaba 131 ngokufaka ukuhlolwa

kwezokwelashwa kwezingane ezidinga ukunakekelwa noma ukutholela ingane indawo yokuhlala.

2.75 **Umshwana75** ufuna ukuchibiyela isigaba 135 ukuze kwenziwe izichibiyelo zobuchwepheshe ezincane.

2.76 **Umshwana 76** uhlose ukuchibiyela isigaba 141 ngokuhlinzeka ukuthi noma yimuphi umuntu kufanele abike izimo zokusetshenziswa kwezingane nokuxhashazwa.

2.77 **Umshwana 77** uhlose ukuchibiyela isigaba 142 ngokunika uNgqongqoshe amadla okwenza imithethonqubo echaza amandla, imisebenzi nezibopho zoMbhalisi weRejista kaZwelonke Yokuvikelwa Kwezingane, kanye nokusungulwa kwamayunithi anezinsiza zokunakekelwa kwezingane aqokiwe anezinsiza zokuqinisekisa ikhwalithi.

2.78 **Umshwana 78** uhlose ukuchibiyela isigaba 145 ukunikeza uNgqongqoshe Wesifundazwe amandla okwenza imithethonqubo yolwazi maqondana nokubuyekezwa kwamasu.

2.79 **Umshwana 79** uhlose ukuchibiyela isigaba 146 ngokwenza izichibiyelo ezincane ezinomthelela.

2.80 **Umshwana 80** uhlose ukuchibiyela isigaba 147 maqondana nokuqunywa

kwamaqophelo namazinga okuvikela kanye nezinhlelo zokungenelela kusenesikhathi nangokufaka isigatshana (3) esisha esihlinzeka ukuthi amaqophelo namazinga njengoba kuhlongozwe esigatshaneni (1) kufanele athuthukise izindlela zokuvimbela kanye nokungenelela kusenesikhathi. Lesi sichibibyelo sihlose ukuthuthukisa ukuhlinzekwa kwezinhlelo zokuvimbela kusenesikhathi ngenhloso yokwenza imigomo ifane.

2.81 **Umshwana 81** uhlose ukuchibiyela isigaba149A uhlinzeka uNgqongqoshe ukuba enze imithethonqubo maqondana nanoma yiluphi udaba oludingekayo ukwenza lula ukuqalisa ukusebenza kwalesi Sahluko.

2.82 **Umshwana 82** uhlose ukuchibiyela isigaba 150 ukuchaza ingane elahliwe noma eyintandane futhi engenamzali, umqaphi, ilungu lomndeni, noma umnakekeli okwaziyo futhi okulungele ukunakekela ingane, yingane edinga ukunakekelwa nokuvikelwa. Ingane edinga ukunakekelwa nokuvikelwa izobandakanya "ingane yofuduko ehamba yodwa evela kwelinye izwe", **"isisulu** sokushushunjiswa kwabantu ", noma ingane “edayiswe umzali oyinakekelayo noma umqaphi".

2.83 **Umshwana 83** uhlose ukuchibiyela isigaba 155 ngokwenza izichibiyelo ezincabe ezinomthelela othile.

2.84 **Umshwana 84** uhlose ukuchibiyela isigaba 156 ngokwenza izichibiyelo ezincabe ezinomthelela othile.

2.85 **Umshwana 85** uhlose ukuchibiyela isigaba 157 ngokufaka okukhuluma "ngomqaphi".

2.86 **Umshwana 86** uhlose ukuchibiyela isigaba 159 ngokuhlinzeka ukuthi inkantolo ingelula indlela enye yokunakekelwa esiphelelwe yisikhathi noma yenze umyalelo wesikhashana. Ngaphezu kwalokho, kuzolawulwa ukuqinisekisa ukuziphendulela kwezikhulu ezithintekayo maqondana nokuphelelwa yisikhathi kwemiyalelo. Kwakha ingxenye yesixazululo sesikhathi eside sokunakekela izingane okungezona ezabo njengendlela yokulawula imiyalelo yokunakekela izingane okungezona ezabo.

2.87 **Umshwana 87** uhlose ukuchibiyela isigaba 167 ngaloku-

(a) ukuhlinzeka ngokuthi ingane ayinakubekwa endaweni yokunakekelwa ephephile ngaphezu kwamahora angama- 72 ngaphandle komyalelo wenkantolo;

(b) ukuhlinzeka ngokuthi ingane ayinakubekwa endaweni yokunakekelwa ephephile isikhathi esingaphezu kwezinyanga eziyisi- 6;

(c) ukufaka isigatshana (3) (c) ukuhlinzekela izikhathi zokuvunyelwa kwabantu nezikhungo ezibhalisiwe zokunakekelwa kwezingane nentsha.

2.88 **Umshwana 88** ufuna ukuchibiyela isigaba 170 ngokuhlinzeka ukuthi ingane ebaleka endaweni yokunakekelwa kwenye indawo bese iyabanjwa noma ibuye singakapheli isikhathi esingamahora angama- 48 akufanele ivele phambi

kwenkantolo yezingane. Kodwa-ke, usonhlalakhle oqokiwe kufanele ayihlole ingane ukuze athole izizathu zokuthi kungani ingane ibaleka bese wenza izincomo kwiNhloko Yesifundazwe yokuThuthukiswa koMphakathi.

2.89 **Umshwana 89** uhlose ukuchibiyela isigaba 178 ngokwenza izichibiyelo ezincane ezinomthelela.

2.90 **Umshwana 90** uhlose ukuchibiyela isigaba 179 ngokwenza izichibiyelo ezincane ezinomthelela nangokufaka imithetho emisha yokwenza amandla afaka imali ekhokwa kumuntu ingane ebekwe kuye ukuze inakekeklwe ngokuphephile okwesikhashana; indlela uNgqongqoshe wezokuThuthukiswa koMphakathi Wesifundazwe anganikeza ngayo imvume ebhalwe phansi ngezingane ezinakekelwa kwenye indawo ukuze zishiye iRiphabhuliki; nesimo Ispho isikhalazo esiphikisana nesinqumoesithathiwe ngokwalesi Sahluko kufanele sifakwe khona kuNgqongqoshe wezokuThuthukiswa koMphakathi Wesifundazwe.

2.91 **Umshwana 91** uhlose ukuchibiyela isigaba181 ngokwenza izichibiyelo ezincane ezinomthelela othile ukuze kuchazwe imigomo ephathelene nokunakekela abantu abangabodwa.

2.92 **Umshwana 92** uhlose ukuchibiyela isigaba 183 ngokwenza izichibiyelo ezincane ezinomthelela othile.

2.93 **Umshwana 93** uhloose ukuchibiyela isigaba 185 ngokuhlinzeka ukuthi

zingabi ngaphezu kweziyisithupha izingane ezingabekwa ekunakekelweni nomuntu oyedwa noma abantu ababili abahlala ndawownye ngokohlelo olubhalisiwe lweklasta/qoqo ukuthi izingane ezibekwe endaweni yokunakekela izingane zinakekelwa ngendlela efanele futhi ozinakekelayo akathweswa umthwalo onzima.

2.94 **Umshwana 94** uhlose ukuchibiyela isigaba 186 ngalokhu-

(a) ukuhlinzeka ukuthi inkantolo yezingane uma ibona kunesidingo ingayalela olunye usizo lokuqapha oluqhubekayo nangaphandle kwemibandela yesigaba-159 (1) (a), maqondana nesikhathi somyalelo wenkantolo, nangemuva kokubheka isidingo sokwenza uzinzo empilweni yengane, futhi inkantolo ingabeka ingane ekunakekelweni okungeyona eyakho nelungu lomndeni bese iyalela ukuthi loko kunakekelwa kungaqhubeka ingane ize ibe neminyaka eyi-18;

(b) ukwenza izichibiyelo ezingaba nomthelela othile ukuze uMthethosivivinywa uhambisane namagama asetshenziswa manje;

(c) ukuhlinzeka ukuthi lesi sigaba asisebenzi ohlelweni lweklasta/qoqo yokunakekela.

2.95 **Umshwana 95** uhlose ukuchibiyela isigaba 188 ngokufaka okukhuluma ngokukhubazeka.

2.96 **Umshwana 96** uhlose ukuchibiyela isigaba 191 ngaloku **-**

(a) Ukuhlinzeka ukuthi isikhungo sezingane nentsha kufanele kubhaliswe.

(b) Ukulungisa okukhuluma ngejele;

(c) Ukufaka ukushiywa ngaphandle kwezikhungo zokwelapha emfunekweni

yokubhaliswa njengezikhungo zokunakekela izingane nentsha ukuze kugwenywe ukubhalisa okukabili;

(d) Ukuhlinzeka ngokuthi ingane ebhalisiwe kanye nesikhungo sokunakekelwa kwentsha ngaphezu kokunikela ngohlelo lokwelashwa kumele sinikeze uhlelo lokuthuthuka olwenzelwe ukuhlala kwezingane ezingaphandle kwendawo yomndeni.

(e) Ukucacisa ukuthi umzali noma omunye umuntu onezibophezelo uphinde abe namalungelo maqondana nokwamukela, ukunakekela kanye nokukhulisa izingane;

(f) ukwengeza ohlwini lwezinhlelo okufanele zihlinzekwe yisikhungo sokunakekela izingane nentsha.

2.97 **Umshwana 97** uhlose ukuchibiyela isigaba 193 ngokwenza izichibiyelo ezincane ezinomthelela othile kanye nokwengeza isigatshana (3A) esisha esihlinzeka ukuthi uNgqongqoshe wezoThuthukiswa koMphakathi Wesifundazwe angahlinzeka ngemali isikhungo sokunakekela izingane kanye nentsha esibhalisiwe esihambisana namaqophelo namazinga kazwelonke.

2.98 **Umshwana 98** uhlose ukuchibiyela isigaba 194 ukuze **-**

(a) kufakwe abanye oNgqongqoshe abafanele, abambiqhaza abafanele kanye nezinhlangano zomphakathi ezifanele njengenxenye yababambiqhaza okumele uNgqongqoshe abonisane nabo lapho kunqunywa amaqophelo namazinga;

(b) Kuchitshiyelwe isigaba 194 ukuze kufakwe isidingo samaqophelo namazinga kazwelonke ahlobene nokutholakala kwezinsizakalo zokuhlumelelisa izingane

ezinokukhubazeka.

2.99 **Umshwana 99** uhlose ukchibiyela isigaba 197 ngokwenza izichibiyelo ezincane ezinomthelela othile.

2.100 **Umshwana 100** uhlose ukuchibiyela isigaba 199 ngokususa okukhuluma ngokubhaliswa okunemibandela nokususa okukhuluma ngesikhungo esinakekela okwesikhashana esinqunyiwe bese kufakwa esikhundleni saloko okukhuluma ngesikhungo sokunakekela izingane nentsha.

2.101 **Umshwana 101** uhlose ukuchibiyela isigaba 200 ngokwenza izichibiyelo ezincane ezingaba nomphumela othile inqobo nje uma uNgqongqoshe WeSifundazwe obhekele EzokuThuthukiswa KoMphakathi angasiza inhlangano eqokiwe ebhekele ukuvikelwa kwezingane, lapho ukubhaliswa kwayo kwakunemibandela, yokuthi ihambisane nemigomo nemibandela ebekiwe.

2.102 **Isigatshana 102** sihlose ukuchibiyela isigaba 201 ngokukhipha isihloko esithi "sokubhaliswa okwesikhashana" kufakwe "imigomo ehlobene nokubhaliswa" bese kwenziwa izichibiyelo ezincane ezingaba nomphumela othile.

2.103 **Umshwana 103** uhlose ukuchibiyela isigaba 205 ngokwenza izichibiyelo ezincane ezingaba nomphumela othile kanye nokuhlanganisa ukwethulwa kombiko njengoba kubekelwe iNhloko yoMnyango WezokuThuthukiswa KoMphakathi obalula amalungiselelo enzelwe izingane ebezihlala esikhungweni esinakekela izingane kanye nentsha.

2.104 **Umshwana 104** uhlose ukuchibiyela isigaba 208 ngokwenza izichibiyelo ezincane ezingaba nomphumela othile.

2.105 **Umshwana 105** uhlose ukuchibiyela isigaba 209 ngokwenza izichibiyelo ezincane ezingaba nomphumela othile bese kufakelwa ibhodi lokuphatha inkomba.

2.106 **Umshwana 106** uhlose ukuchibiyela isigaba 211 ngokuhlinzeka umgomo onombandela ukukhombisa ukuthi, uma kufanelekile, ukuthi ithimba elingahlangene naleso sikhungo lingaqoka umeluleki ozobheka ukusetshenziswa kohlelo yilabo abangababaphathi besikhungo.

2.107 **Umshwana 107 uhlose** ukuchibiyela isigaba 213 ngo **-**

(a) kususa isigatshana (1) ukucacisa ukuthi izindawo ezihlinzeka ngosizo kwabangenamakhaya akuzona izindawo zokuhlala. Izichibiyelo zihlose ukuhlukanisa phakathi kwezikhungo zezingane kanye nezentsha kanye nezikhungo ezihlinzeka ngosizo kwabangenamakhaya, izikhungo ezihlinzeka ngosizo kwabangenamakhaya akuzona izikhungo zokuhlala ezifuze izikhungo ezinakekela izingane kanye nezentsha nangofaka imisebenzi ebonelela ngezidingo zezifo zengqondo nokuhlukumezeka ngokwezenhlalo ngaphansi

kwesigatshana (2);

(b) ukufaka ngaphansi kwesigatshana (3) isigatshana (*a*A) uhlelo 'lwengqondo kanye nelokomoya'. Lesi sichibiyelo sihlose ukwelula uhlu lwezinhlelo iSikhulu esihlinzeka ngosizo kwabangenamakhaya esingase siluhlinzeke;

(c) ngokwenza izichibiyelo ezingaba nomphumela othile.

2.108 **Umshwana 108** uhlose ukuchibiyela isigaba 214 ngokufaka nanoma ibaphi oNgqongqoshe abafanelekile, ababambe iqhaza abafanelekile kanye nezinhlangano zemiphakathi zibe ingxenye yababambe iqhaza okufanele uNgqongqoshe abonisane nabo, mayelana nokuthuthukiswa kwecebo likazwelonke eliphathelene nezikhungo ezihlinzeka ngosizo kwabangenamakhaya.

2.109 **Umshwana 109** uhlose ukuchibiyela isigaba 215 esilawula umgomo wezikhungo ezihlinzeka ngosizo kwabangenamakhaya ngo-

(a) kufakwa kwesigatshana (3A) esisha ukuvumela iSikhulu esihlinzeka ngosizo kwabangenamakhaya esibhaliswe okwesikhashana ukuthi sikwazi ukuthola izimali nakuba singahambisani ngokuphelele nemibandela nemigomo ebekiwe kazwelonke;

(b) kuchibiyela isigatshana (4) ukuze sihlinzekele ukuthi uNgqongqoshe WeSifundazwe angabonelela ngezimali kuqala izikhungo ezihlinzeka ngosizo kwabangenamakhaya;

(c) kuchibiyela isigatshana (4) *(a)* ukuze sihlinzeke ngokuthi uNgqongqoshe WeSifundazwe abonelele kuqala futhi ahlinzeke amawadi amenyezelwe ukuthi ampofu kanye nemiphakathi lapho kukhona imindeni engenayo indawo efanelekile yokuhlala, ngokudla kanye nezinye izidingonqangi zempilo ezinganeni zabo.

2.110 **Umshwana 110** uhlose funa ukuchibiyela isigaba 218 ngokusula inkomba ethi ukubhaliswa kwesikhashana.

2.111 **Umshwana 111** uhlose ukuchibiyela isigaba 219 ngokwenza izichibiyelo ezingaba nomphumela othile.

2.112 **Umshwana 112** uhlose ukuchibiyela isigaba 220 ngokulungisa inkomba ibe "izimo ezihlobene nokubhaliswa" futhi senze izichibiyelo ezincane ezingaba nomphumela othile.

2.113 **Umshwana 113** uhlose ukuchibiyela isigaba 224 ngokuhlinzekela ukuqashelwa kwezikhungo ezihlinzeka ngosizo kwabangenamakhaya.

2.114 **Umshwana 114** uhlose ukuchibiyela isigaba 225 ngokwenza izichibiyelo ezincane ezingaba nomphumela othile.

2.115 **Umshwana 115** uhlose ukuchibiyela isigaba 226 esihlinzeka ukuthi uma ingane ilimele kakhulu noma ihlukunyezwe isesikhungweni esihlinzeka ngosizo kwabangenamakhaya kufanele umuntu olawula lesi skhungo esihlinzeka ngosizo kwabangenamakhaya noma umuntu oqashwe khona abikele ngokushesha uNgqongqoshe WeSifundazwe WezokuThuthukiswa KoMphakathi lokho kulimala noma lokho kuhlukunyezwa, yena ofanele ukuthi enze ngokulandela imigomo yesigaba 110(5).

2.116 **Umshwana 116** uhlose ukuchibiyela isigaba 232 ngokucacisa ukuthi inhloso yerejista ukuqhathanisa izingane ezingatholelwa amakhaya nabazali abangase bazithathele zona kanye nokwenza ezinye izichibiyelo ezingaba nomphumela othile.

2.117 **Umshwana 117** uhlose ukuchibiyela isigaba 233 esilawula imvume yokuthatha ingane uyenze eyakho ngokuthi ihlinzeke ukuthi inkantolo inganikezela ngosizo lomzali obengumnakekeli wengane ngendlela ezolungela ingane ezotholelwa ikhaya kanye nalwo mzali ozozithathela yona. Lesi sichibiyelo sifuna ukuphakamisa konke okulungele ingane uma umnakekeli womzali wengane akekho ukunikezana ngemvume yokuthi ingane inganikezwa ikhaya elisha.

2.118 **Umshwana** uhlose ukuchibiyela isigaba 234 esilawula izivumelwano zangemuva kokutholelwa kwengane ikhaya elisha ngokususa isigatshana (1) ukuthi sifake 'noma ilungu lomndeni' kulolu luhlu olukhona olufaka umzali noma umnakekeli, ukungena ezivumelwaneni sangemuva kokutholelwa kwengane ikhaya elisha ngaphambili noma ngesikhathi sokufakwa kwesicelo kanye nokuphinda kuhlinzekwe ukuthi ngesikhathi inkantolo yenza isicelo ngokulandela isigaba 239 iphetha ngokuthi isivumelwano sangemuva kokutholelwa kwengane ikhaya elisha sizolungela ingane okukhulunywa ngayo, lokho kungaholela ekutheni labo abathintekile bacabange ngesivumelwano esinjalo, kubalwa ukungenelela komlamuli uma kunesidingo. Lesi sichibiyelo sihlose ukuthi sivumele ilungu lomndeni ukuthi lingene esivumelwaneni sangemuva kokutholelwa kwengane ikhaya elisha, uma lelo

lungu lomndeni selamukelwe ngokusemthethweni njengomuntu onakekela ingane ezotholelwa ikhaya elisha.

2.119 **Umshwana 119** uhlose uku-

(a) chibiyela isigaba 236 esilawula izimo lapho kungezufuneka khona imvume ngokushintshisana esigatshaneni (1) sesigaba *(a)* ukufaka umuntu okwazi ukunikezana ngemvume ngenxa yokugula ngekhanda kanye nokukhubazeka engqondweni njengokuxhaswa umbiko oqhamuka kumuntu ofanelekile. Le sichibiyelo sihlose ukubamba isinqumo esithi umuntu unokukhubazeka kwengqondo nokuthi ngeke akwazi ukunikezana ngemvume, kumuntu ofanekile ongakwazi ukwenza leso sinqumo;

(b) ukuchibiyela isigaba 236 ngokufakwa kwesigaba (*c*) esigatshaneni (3) ukunikezelana ngemvume evela kubaba ozala leyo ngane kulandela izinsolo ezenziwe umama wengane, ukuthola ukuhlelembeka kwamathuba okuthi leyo ngane yamithwa ngoba unina wayeyisisulu sokushushunjiswa kwabantu: Inqobo nje uma imiphumela enjalo ingeze yaba isigwebo secala lokushushunjiswa kwabantu. Lesi sichibiyelo siyadingeka ukuze sicacise ukuthi imvume kababa wengane ayifuneki enganeni ezelwe ngenxa yokuthi unina wayeyisisulu sokushushunjiswa, okuwukuthi ubaba wayo wayeyingxenye yakho ngazo zonke izindlela.

2.120 **Umshwana 120** uhlose ukuchibiyela isigaba 239 ngoku-

(a) ngokukhipha amagama athi “usonhlalakahle otholela izingane amakhaya amasha” ufake athi “usonhlalakahle obhekele ukutholelwa kwezingane amakhaya amasha”;

(b) ukuchitshiyelwa kwesigatshana (1) *(e)* ngokususwa kwegama elithi "okunqunyiwe" bese kufakwa amagama athi "njengoba kungase kunqunywe" ekugcineni komusho. Lokhu ukuchibiyela kobuchule okunesidingo ukwenzela ukuthi kufundeke kalula.

2.121 **Umshwana 121** uhlose ukuchibiyela isigaba 243 ngokuhlinzekela ifomu lokwenza isicelo. Lesi sichibiyelo sihlose ukuvumela uNgqongqoshe ukwenza ifomu okufanele lisetshenziswe uma kwenziwe isicelo sokukhansela ukutholelwa kwengane ikhaya elisha.

2.122 **Umshwana 122** uhlose ukusula isigaba 249. Lesi sichibiyelo sihlose ukususa izinkomba ezikhuluma ngezimali ezingahle zibizwe ngokufunelwa kwengane ikhaya elisha.

2.123 **Umshwana 123** uhlose ukuchibiyela isigaba 250 ngo-

(a) kufakwa kwesigatshana (1) *(e)* manje esesenza umgomo "kasonhlalakahle oqashwe uMnyango kazwelonke noma uMnyango wesifundazwe WezoKuthuthukiswa KoMphakathi ohlinzeka ngemisebenzi yokutholelwa kwezingane amakhaya amasha". Lokhu kwengezwa kuhlose ukufaka ohlwini kwabantu abangahlinzeka imisebenzi yokutholelwa kwezingane amakhaya amasha;

(b) sula izigatshana (2) kanye (3) ezihlinzeke kubantu abafundele ukwenza lowo msebenzi kanye nezinhlangano ezingabalwanga esigatshaneni (1) ngethuba elikhethekile lokuthi zingaqhubeka nokuhlinzeka imisebenzi yokutholelwa kwezingane amakhaya amasha. Ukusulwa kwalezi zigatshana kuyadingeka ukuze kususwe ukuphindaphindwa kwezigatshana, ngoba umongo walokho uqukethwe

esigabeni 249 (2) *(b)*.

2.124 **Umshwana 124** uhlose ukuchibiyela isigaba 251 ngokufaka isigaba 1A ukuze kuhlinzekelwe indlela enqunyiwe yokwenza izinto uMqondisi Jikelele angahoxisa igunya lokuhlinzeka ngemisebenzi yokutholelwa kwezingane amakhaya amasha. Lesi sichibiyelo siyadingeka ukuze uMqondisi Jikelele akwazi ukuhoxisa igunya lomhlinzeki wemisebenzi yokutholelwa kwezingane amakhaya amasha, uma umhlinzeki wemisebenzi angahambisani nezimfuno zokomthetho nezokuba negunya.

2.125 **Umshwana 125** uhlose ukuchibiyela isigaba 252 ngokususa isigatshana (1) *(b)* ukhiphe amagama "inhlangano evikela izingane egunyazwe ukuhlinzeka imisebenzi yokutholelwa kwezingane amakhaya amasha" ufake lawa esikhundleni sawo "usonhlalakahle otholela izingane amakhaya amasha". Futhi ususe konke okukhuluma ngokukhangisa ufake isaziso esikhundleni sazo. Lesi sichibiyelo sihlose ukucacisa ukuthi usonhlalakahle otholela izingane amakhaya amasha ongakhipha isaziso ngenhloso yokuqasha, hayi inhlangano. Isizathu sokususwa kwegama "isikhangiso" yingenxa yokuthi inhloso yesikhangiso ukudayisa futhi siyabiza. Isaziso sithathwa njengezokuxhumana ezijwayelekile okuvame ngokubiza kancane ukusishicilela. Isikhangiso sihlose ukuheha umthengi ukuthi athenge kanti isaziso siveza kuphela ulwazi olungamaphuzu abalulekile

2.126 **Umshwana 126** uhlose ukuchibiyela isigaba 253 ngokususwa kwesigatshana *(e)* kanye *(f)* sikhiphe igama "ezenhlalakahle" sifake igama "ukuvikela" esikhundleni salo. Lesi sigaba sigunyaza uNgqongqoshe ukuthi ngokulandela imithethonqubo

ebhekene nemiyalelo yenkantolo enze izinqubomgomo, ngemuva kokubonisana noNgqongqoshe WezoBulungiswa NoKuthuthukiswa KoMthethosisekelo. Lesi sichibiyelo sihlose ukuthi sihambisane namagama asetshenziswa kulesi sikhathi.

2.127 **Umshwana 127** uhlose ukuchibiyela isigaba 258 ngokulungisa izinkomba ezigamanxela kwezinye izigaba kulo Mthetho.

2.128 **Umshwana 128** uhlose ukuchibiyela isigaba 259 nokwenza izichibiyelo ezincane ezingaba nomphumela othile kanye nokusula isigatshana (4).

2.129 **Umshwana 129** uhlose ukuchibiyela isigaba 260 ngo-

(a) kufakwa kwamagama athi "inhlangano eyaziwayo noma" ngaphambili kwamagama athi "isikhungo esitholela izingane amakhaya amasha". Isichibiyelo esiphakanyisiwe sifuna ukuhlinzeka indlela ehlukile kuneyesikhungo esitholela izingane amakhaya amasha egunyaziwe yakwelinye izwe ngokuhlinzeka okuhlukile kune "nhlangano elingana nayo" nenhlangano evikela izingane egunyaziwe ngokulandela isigaba 260;

(b) ngokuhlinzekela iSikhulu Samagunya SikaZwelonke seRiphabhuliki ukungena esivumelwaneni sokusebenzisana sokutholela izingane amakhaya amasha nesikhungo samagunya selinye izwe okunesivumelwano nalo. Lesi sichibiyelo sihlose ukuthi iSikhulu Samagunya SikaZwelonke seNingizimu Afrika sikwazi ukungena esivumelwaneni sokusebenzisana nesikhungo samagunya selinye izwe okunesivumelwano nalo. Okwamanje, uMthetho Wezingane uhlinzeka kuphela izinhlangano ezivikela izingane umgomo wokungena ezivumelwaneni zokusebenza, hayi iSikhulu Samagunya SikaZwelonke.

2.130 **Umshwana** 130 uhlose ukuchibiyela isigaba 261 ngo**-**

(a) kususa isigatshana (2) ukuze kufakwe igama elithi "kuzo" ifake igama elithi "kufanele”;

(b) isichibiyelo sesigatshana (3) ngokufaka igama elithi "phakathi kwamazwe amabili" ngaphambili kwegama elithi "ukutholelwa ikhaya elisha" kanye namagama athi "seRiphabhuliki" ngemuva kweSikhulu Samagunya SikaZwelonke. Lesi sichibiyelo sihlose ukuhlukanisa phakathi kweSikhulu Samagunya SikaZwelonke seNingizimu Afrika neselizwe langaphandle;

(c) isichibiyelo sesigatshana (4) ngokususwa kwegama elithi "kuzo" ufake igama elithi "kufanele" esikhundleni salo namagama athi "seRiphabhulikhi" ngemuva kweSikhulu Samagunya SikaZwelonke. Lesi sichibiyelo sihlose ukuqinisekisa ukuthi kugcinwe amagama asetshenziswayo angaguquguqulwa;

(d) isichibiyelo sesigatshana (5) *(e)* ngokufaka amagama athi "futhi akahoxisanga imvume" ekugcineni kwesigatshana ukucacisa isimo semvume esayindiwe. Lesi sichibiyelo sihlose ukucacisa isimo semvume esayiniwe;

(e) isichibiyelo sesigatshana (5) *(f)* ngokufaka amagama athi " futhi akahoxisanga imvume ekugcineni kwesigatshana kodwa ngaphambili kwegama "kanye/futhi". Lesi sichibiyelo sihlose ukucacisa ukuthi inkantolo ingakhipha umyalelo wokutholela izingane amakhaya amasha uma kuhlangatshezwa izimfuno futhi yenelisekile wukuthi iSikhulu Samagunya Sikazwelonke selinye izwe okunesivumelwano nalo sivumele ukutholela ingane ikhaya elisha futhi asihoxisanga imvume;

(f) isichibiyelo sesigatshana (6) *(a)* ngokususa amagama athi "phakathi kwesikhathi esiyizinsuku ezi-140 kusukela osukwini okwavunyelwana ngokutholelwa ingane ikhaya elisha" esikhundleni samagama alandelayo "nganoma isiphi isikhathi

ngaphambi kokuthi inkantolo ikhiphe umyalelo wokutholela izingane amakhaya amasha". Lesi sichibiyelo sihlose ukususa umbhalo wezinsuku ezi-140 njengoba angahambisani nomthetho futhi angaxhumananga nanoma imuphi umgomo oseSivumelwaneni. Lesi sikhathi sisekhundleni somgomo ovumela iSikhulu Samagunya SikaZwelonke ukuhoxisa isivumelwano saso nganoma isiphi isikhathi ngaphambi kokuthi inkantolo inikezane ngomyalelo omayelana nokutholelwa kwezingane amakhaya amasha okuphakathi kwamazwe amabili. Lokhu kuzosho ukuthi imvume ngeke ihoxiswe ngemuva komyalelo wenkantolo, ngalokho yenze imigomo yezigatshana (6) *(b)* yamanje kanye (7) zingasasebenzi, omigomo yawo kufanele ikhishwe;

(g) ngokususa izigatshana (6) *(b)*, (7) kanye (9). Lesi sichibiyelo siyaidingeka ukuze ihambisane nesichibiyelo esigabeni 261(6) *(a)*; kanye

(h) nokususa isigatshana (8), esihlinzekela ukutholelwa kwengane ikhaya elisha kwengane ehlala eRiphabhuliki ithathwa yilungu lomndeni waleyo ngane ohlala ezweni okunesivumelwano nalo noma ngumuntu ongaba ngumzali ngokuhlanganyela nomzali wangempela wengane okuzobhekwana naye ngendlela ebekiwe njengamazwe asebenzisanayo: Inqobo nje uma iSikhulu Samagunya SikaZwelonke seRiphabhuliki singakhiphela amazwe amabili afuna ukutholela ingane ikhaya elisha imfuno esemthethweni eyodwa noma eziningi uma kuyinto enhle elungele ingane okukhulunywa ngayo ngokuya kwaleyo ndaba. Lesi sichibiyelo sihlose ukuthi uNgqongqoshe ukwazi ukwenza imithethonqubo mayelana nokutholelwa kwengane ikhaya elisha okuphakathi kwelungu lomndeni waleyo ngane nomzali ngokuhlanganyela nomzali wengane, ohlala ezweni okunesivumelwano nalo.

2.131 **Umshwana** 131 uhlose ukuchibiyela isigaba 262-

(a) isigatshana (2) ngokususa igama elithi "kuzo-" ngelithi "kufanele"**.** Lesi sichibiyelo sihlose ukuthi kugcinwe amagama asetshenziswayo angaguquguqulwa;

(b) esigatshaneni (3) ngokufakwa kwegama elithi "phakathi kwamazwe amabili" ngaphambili kwegama ukutholelwa kwengane ikhaya elisha, ngokufakwa kwamagama athi "seRiphabhuliki" ngemuva kwamagama athi "iSikhulu Samagunya SikaZwelonke" ngokususwa kwegama "kuzo-" kufakwe esikhundleni salo elithi "kufanele" ngemuva nje kokufakwa kwamagama athi "seRiphabhuliki" esigatshaneni (3) futhi (4) kwenziwe kube isibopho. Lesi sichibiyelo sihlose ukuthi kugcinwe amagama asetshenziswayo angaguquguqulwa;

(c) esigatshaneni (5) *(e)* ngokufakwa kwamagama athi "futhi akayihoxisanga imvume" ekugcineni kwesigatshana. Lesi sichibiyelo sihlose ukucisa ukuthi inkantolo ingakhipha umyalelo wokutholela izingane amakhaya amasha uma kuhlangatshezwa izimfuno futhi yenelisekile wukuthi iSikhulu Samagunya Sikazwelonke esifanelekile sezwe okungenasivumelwano nalo sivumele ukutholela ingane ikhaya elisha futhi singayihoxisanga imvume;

(d) isigatshana (5) *(f)* ngokufakwa kwamagama athi "futhi asiyihoxisanga imvume" ekugcineni kwesigatshana. Lesi sichibiyelo sihlose ukucacisa ukuthi inkantolo ingakhipha umyalelo wokutholela izingane amakhaya amasha uma kuhlangatshezwa izimfuno futhi yenelisekile wukuthi iSikhulu Samagunya Sikazwelonke seRiphabhuliki sivumele ukutholelwa kwengane ikhaya elisha futhi asiyihoxisanga imvume;

(e) esigatshaneni (6) ngokususa amagama athi "phakathi kwesikhathi

esiyizinsuku ezi-140 kusukela osukwini okwavunyelwana ngokutholelwa kwengane ikhaya elisha" kufakwe amagama alandelayo esikhundleni sawo "nganoma isiphi isikhathi ngaphambili kokuthi inkantolo inikezane ngomyalelo wokutholela izingane amakhaya amasha". Lesi sichibiyelo sihlose ukususa umbhalo wezinsuku ezi-140. Lesi sikhathi sisesikhundleni somgomo ovumela iSikhulu Samagunya SikaZwelonke seRiphabhuliki ukuhoxisa isivumelwano saso nganoma isiphi isikhathi ngaphambi kokukhishwa komyalelo wenkantolo mayelana nokuvunyelwa kokutholelwa izingane amakhaya amasha. Lokhu kuzosho ukuthi imvume ngeke ihoxiswe ngemuva komyalelo wenkantolo, ngalokho yenze imigomo yezigatshana (6) *(b)* kanye (7) kube ongasasebenzi, omigomo yawo kufanele ikhishwe;

(f) ngokususa izigatshana (6) *(b)*, (7) kanye (9). Lesi sichibiyelo siyadingeka ukuze sihambisane nesichibiyelo esisesigabeni 262(6) *(a)*;

(g) ngokususa isigatshana (8), esihlinzekela ukutholelwa kwezingane amakhaya amasha kwengane ehlala eRiphabhuliki ithathwa ilungu lomndeni waleyo ngane esezweni okunesivumelwano nalo noma ngumuntu ozoba ngumzali wayo ngokuhlanganyela nomzali wangempela wengane ukuze kubhekwane nakho ngendlela ebekelwe ukutholelwa kwezingane amakhaya amasha okuhlanganisa amazwe amabili: Inqobo nje uma iSikhulu Samagunya SikaZwelonke seRiphabhuliki singakhiphela amazwe amabili afuna ukutholela ingane ikhaya elisha imfuno esemthethweni eyodwa noma eziningi uma kuyinto enhle elungele ingane okukhulunywa ngayo ngokuya kwaleyo ndaba. Lesi sichibiyelo sihlose ukuthi uNgqongqoshe akwazi ukwenza imithethonqubo mayelana nokutholelwa kwengane ikhaya elisha okuphakathi kwelungu lomndeni waleyo ngane ngokuhlanganyela nomzali wangempela wengane, ohlala ezweni okungenasivumelwano nalo.

2.132 **Umshwana 132** uhlose ukuchibiyela isigaba 263 ukususa amandla okwenza izinqumo eSikhulwini Samagunya Sikazwelonke uma kukhishwa isitifiketi sokuthotshelwa komgomo, ngokususa igama elithi "singase" ufake elithi "kufanele" futhi ufake amagama alandelayo "kufanele eseRiphabhuliki" ngemuva nje kwamagama athi iSikhulu Samagunya kuZwelonke. Lesi sichibiyelo sihlose ukususa amandla okuthatha izinqumo eSikhulwini Samagunya kuZwelonke kanye nokusibophezela ukuthi sikhiphe isitifiketi sokuthotshelwa komgomo uma inkantolo yezingane ivume ukutholelwa kwengane ikhaya.

2.133 **Umshwana 133** uhlose ukuchibiyela isigaba 264-

(a) ngokuchitshiyelwa kwesigatshana (1) ngokufakwa kwegama elithi "weRiphabhuliki" ngemuva kwamagama athi iSikhulu Samagunya kuZwelonke. Lesi sichibiyelo sihlose ukucacisa ukuthi umuntu oyisakhamuzi seRiphabhuliki futhi ofisa ukuzitholela ingane enganalo ikhaya ohlala ezweni okunesivumelwano nalo kufanele afake isicelo eSikhulwini Samagunya kuZwelonke seRiphabhuliki;

(b) ngokususwa esigatshaneni (2) kanye (3) kufakwe igama elithi "kuzo-" esikhundleni segama elithi "kufanele", kanye nokufakwa kwamagama athi "seRiphabhuliki" ngemuva nje kwamagama athi iSikhulu Samagunya kuZwelonke. Lesi sichibiyelo sihlose ukuthi kugcinwe amagama asetshenziswayo angaguquguqulwa;

(c) esigatshaneni (4) nokufakwa kwegama elithi "seRiphabhuliki" ngemuva nje kwamagama athi iSikhulu Samagunya kuZwelonke kanye nokususwa kwegama elithi "kuzo-" esikhundleni segama elithi "kufanele". Lesi sichibiyelo sihlose ukuthi kugcinwe amagama asetshenziswayo angaguquguqulwa.

2.134 **Umshwana 134** uhlose ukuchibiyela isigaba 265 ngokususwa kwesigatshana (1), (3) kanye (4) nokufakwa kwegama elithi "seRiphabhuliki" ekugcineni kwamagama athi iSikhulu Samagunya kuZwelonke kanye ngokususwa ezigatshaneni (2), (3) kanye (4) kwegama elithi "kuzo-" esikhundleni segamaga elithi "kufanele". Lesi sichibiyelo sihlose ukuthi kugcinwe amagama asetshenziswayo angaguquguqulwa.

2.135 **Umshwana 135** uhlose ukuchibiyela isigaba 266-

(a) ngokususwa esigatshaneni (1), (2) kanye (5) kufakwe igama elithi "kuzo-" esikhundleni segama elithi "kufanele". Lesi sichibiyelo sihlose ukuthi kugcinwe amagama asetshenziswayo angaguquguqulwa;

(b) ngokufakwa kwegama elithi "seRiphabhuliki" ngemuva nje kwamagama athi iSikhulu Samagunya kuZwelonke esigatshaneni (3) kanye "ngendlela ehleliwe kanye nangendlela elandelwayo". Lesi sichibiyelo sihlose ukunquma indlela ehleliwe kanye nendlela elandelwayo iSikhulu Samagunya kuZwelonke seRiphabhuliki esingakhipha ngayo isimemezelo esamukela ukutholelwa kwengane ikhaya elisha, uma izwe elifanelekile okunesivumelwano nalo lingakhiphanga isitifiketi sokuthotshelwa komgomo, okwenza ukuthi kufakwe amagama athi "ngendlela ehleliwe kanye nendlela elandelwayo";

(c) ngokwengezwa kwesigatshana (6) esihlinzeka ukuthi umyalelo wokutholelwa wezingane amakhaya amasha owenziwe kwelinye izwe ungamukelwa eRiphabhuliki kunganakwa ukuthi ingane etholelwa ikhaya elisha ingumuntu omdala ngesikhathi sokufakwa kwesicelo sokwamukelwa: inqobo nje uma loku kutholelwa kwengane ikhaya elisha kuhambisana nomthetho futhi

kungazange kukhanselwe ngaphansi komthetho wezwe umyalelo wokutholelwa kwengane ikhaya elisha owenziwa kulo. Lesi sichibiyelo sihlose ukuthi iSikhulu Samagunya kuZwelonke seRiphabhuliki sikwazi ukwamukela umyalelo wokutholelwa kwengane ikhaya elisha owenziwe kwelinye izwe kunganakwa ukuthi le ngane etholelwa ikhaya elisha ingumuntu omdala ngesikhathi sokufakwa kwesicelo sokwamukelwa.

2.136 **Umshwana 136** uhlose ukuchibiyela isigaba 268 **-**

(a) ngokufakwa kwezinombolo ezilungile kanye nangokufakwa kwegama elithi "seRiphabhuliki " masinyane ngemuva kwamagama athi iSikhulu Samagunya kuZwelonke kanye nokuhlela indlela elandelwayo iSikhulu Samagunya kuZwelonke seRiphabhuliki esingakhipha ngayo isimemezelo esamukela ukutholelwa kwengane ikhaya elisha ezweni okungenasivumelwano nalo. Lesi sichibiyelo sihlose ukucacisa ukuthi iSikhulu Samagunya kuZwelonke seRiphabhuliki okufanele sikhiphe isimemezelo ngendlela elandelwayo, uma ukutholelwa kwengane ikhaya elisha kuthobela umthetho futhi kungakhanselwanga;

(b) ngokufaka isigaba 2 esihlinzeka *ngokutholelwa* kwengane ikhaya elisha ezweni okungenasivumelwano nalo ngumuntu ohlala kwelinye izwe okungenasivumelwano nalo kufanele kwamukelwe eRiphabhuliki uma isitifiketi sokuthotshelwa komgomo wokutholelwa kwengane ikhaya elisha sikhishwe ezweni okungenasivumelwano nalo sisakulungele ukutholelwa kwengane ikhaya elisha. Lokhu kufakwa kwalesigaba kuhlose ukuthi iSikhulu Samagunya kuZwelonke seRiphabhuliki sikwazi ukwamukela ukutholelwa kwengane ikhaya elisha kwengane ehlala kwelinye izwe

okungenasivumelwano nalo ngumuntu ohlala kwelinye izwe okungenasivumelwano nalo futhi kuphethelwe kulelo zwe ingane ehlala kulo, uma isitifiketi sokuthotshelwa komgomo noma okufana naso kukhishwe ilelo zwe.

2.137 **Umshwana 137** uhlose ukuchibiyela isigaba 271 ngokufakwa kwesigatshana (1A) esilawula ukuthi uma isicelo sokutholelwa kwezingane amakhaya amasha sinqatshwa inkantolo yezingane ingane kufanele ibuyiselwe ezweni eyazalelwa kulo. Futhi siphakamisa ukuthi inqubo ilandele uhlelo oluthile. Futhi lesi sigatshana sifaka isigatshana (3) esihlinzeka ukuthi lapho ubunakekeli bengane bungalingani nokutholelwa kwezingane amakhaya amasha njengokwamukelekile kuSikhulu Samagunya kuZwelonke seRiphabhuliki, leyo ndaba kufanele idluliselwe enkantolo efanele ukuze ithathe isinqumo. Lokhu kwengezwa kwale sigaba kuhlose ukuvikela ingane ubunakekeli bayo obungamukelwa eRiphabhuliki njengokutholelwa kwengane ikhaya elisha.

2.138 **Umshwana 138** uhlose ukufaka isigaba esisha 278A ukuze kusheshiswe izinqubo eziqondene nokubuyiswa kwengane ebithunjiwe. Lesi sichibiyelo siyadingeka ukuze kugwenywe ukubambezeleka kwenqubo yezobulungiswa. Uma kubakhona ukubambezeleka isikhathi eside, ingane ebithunjiwe ijwayela futhi yamukele indawo entsha ehlala kuyo ngalokho kungasekungabi into eyilungele ukuthi ibuyiswe.

2.139 **Umshwana 139** uhlose ukuchibiyela isigaba 279-

(a) ngokucisha amagama athi "ngokulandela isigaba 55," mayelana nommeli wezomthetho wengane, kuzo zonke izicelo ngokulandela iSivumelwano Sase-Hague mayelana noMthetho WamaZwe Omhlaba Okuthunjwa KweziNgane. Le nqubo entsha manje izohlinzekwa ngokuchitshiyelwa kwesigatshana (2) esilandelayo;

(b) ukufaka isigatshana (2), esihlinzeka ukuthi ngosuku lokufaka isicelo

ngokulandela lesi Sahluko sokubuyiswa kwengane, iSikhulu Samagunya kuZwelonke seRiphabhuliki kufanele sazise umongameli wamajaji wesigaba esifanele seNkantolo EPhakeme ngesicelo sokuqokwa kommeli wezomthetho wengane.

2.140 **Umshwana 140** uhlose ukuchibiyela isigaba 292 ngokususwa esigatshaneni (1) *(c)*, *(d)* kanye *(e)* kufakwe amagama athi "kwenziwe ikhaya lonomphela" esikhundleni samagama athi "umhlali ojwayelekile" kanye nangokucishwa kwamagama athi " kwenziwe ikhaya lonomphela noma" esigabeni *(e)*.

2.141 **Umshwana 141** uhlose ukuchibiyela isigaba 295 -

(a) ngokuchitshiyelwa kwesigatshana (ii) kuzo zombili izigaba *(b)* kanye *(c)* ngokufaka amagama athi "kubalwa ezempilo kanye nobudala". Lesi sichibiyelo sihlose ukubhekelelwa kwezempilo kanye neminyaka ngaphambi kokuthi isenzo sokuzalela omunye umuntu siqinisekiswe inkantolo;

(b) ngokususwa kwezigatshana (vi) kanye (vii) esigabeni *(c)*.

(c) ngokufakwa kwesigatshana (*d*A), esihlinzekela isivumelwano esiphelezelwa umbiko ovela kudokotela wengqondo oqukethe ukuhlolwa kwabo bonke abathintekayo, endabeni efaka isikhungo, nasekufakeni incwadi efungelwe ileso sikhungo.

2.142 **Umshwana 142** uhlose ukuchibiyela isigaba 297 ngokususwa kwezigaba esigatshaneni (1) *(e)* ukuhlinzekela ukugamanxa kwezinkomba.

2.143 **Umshwana 143** uhlose ukufaka isigaba esisha 303A esibhekene

nezinqubomgomo. Lesi sichibiyelo sihlose ukugunyaza uNgqongqoshe ukwenza izinqubomgomo mayelana nanoma iyiphi indaba okudingeka ukuthi ilawule ukusebenza kweSahluko 19 esisha, ngemuva kokubonisana noNgqongqoshe WezeMpilo.

2.144 **Umshwana 144** uhlose ukuchibiyela isigaba 304 ngokuchibiyela isihloko sesigaba ngocisha igama elithi "indawo yokuhlala" kanye nokwenza izichibiyelo ezingaba nomphumela othile. Lesi sichibiyelo sihlose ukuqeda ukusetshenziswa kwegama elingasasebenzi manje elithi "indawo yokuhlala".

2.145 **Umshwana 145** uhlose ukuchibiyela isigaba 305 ngokwenza izichibiyelo ezingaba nomphumela othile.

2.146 **Umshwana 146** uhlose ukuchibiyela isigaba 306 ngokulungisa kwezinkomba ezigamanxayo kanye nokwenza izichibiyelo ezingatheni ezingaba nomphumela othile.

2.147 **Umshwana 147** uhlose ukuchibiyela isigaba 312 ngokuhlinzeka uNgqongqoshe WeSifundazwe WezokuThuthukiswa KoMphakathi, ngokulandela nanoma iluphi uhlelo lwamacebo esifundazwe, angangena esivumelwaneni nenhlangano eqokiwe evikela izingane noma umuntu oyibambela-sikhungo esifundazweni esifanele.

3. ABANTU NOMA IZINHLANGANO OKUBONISANWE NAZO

3.1 Lo Mthethosivivinywa washicilelelwa ukuthola imibono yomphakathi ngamhlazinga-29 kuNcwaba (ku-Okthoba) kuze kubengamhlazinga-29 kuLwezi (kuNovemba) wezi-2018. Kwaphindwa kwaboniswana ngalo Mthethosivivinywa neziNhloko zeMinyango yeziFundazwe yezokuThuthukiswa KoMphakathi kanye nababambe iqhaza kuSithangami SikaZwelonke Sokunakekelwa KweziNgane NokuziVikela i-National Child Care and Protection Forum okubala nezithunywa ezingama-26 eziqhamuka emiNyangweni kaZwelonke, emiNyangweni yeziFundazwe kanye neziNhlangano ZoMphakathi.

3.2 Laba abalandelayo bababambe iqhaza bathumelela imibono ebhalwe phansi kanti umbiko oqoshiwe wale mibono kanye nezimpendulo ezivela eMnyangweni ezimayelana nale mibono ngamunye ziyatholakala.

ImiNyango KaZwelonke

UMnyango Wezokubusa Ngokubambisana NeziNdaba ZoMdabu

UMnyango WeziNdaba ZaseKhaya

UMnyango WezoBulungiswa NokuThuthukiswa KoMthethosisekelo

IziNhlangano ZoMphakathi

I-National Adoption Coalition of South Africa

I-Wandisa

I-Cause for Justice

I-Centre for Child Law

I-Child Welfare South Africa

I-CINDI

I-Eastern Cape Adoption Coalition

I-ENGO Free State province

I-Language Environment and Educational Trust

I-Equal Education Law Centre

I-Family Literacy Project

I-Freedom for Religion South Africa

I-Global Initiative to end Corporal punishment

I-National Association for Child and Youth Care Workers

I-Ilifa la Bantwana

I-Life Choices pregnancy crises centre

I-Mamelani projects

I-Nelson Mandela Children's Fund

I-Refugee Legal and Advocacy Centre

I-South African Council for Social Service Professions

I-South African Catholics Bishops Conference

I-South African Federation of Waldorf Schools

I-The Peace Centre

I-UNHCR

Abantu

Kwatholakala izethulo ezithunyelwe ngabantu nasezinhlanganweni zamabandla ezingama-561.

Ngaphezulu kwalokho, kwatholakala izethulo ezine eziphathelene nezindaba zokutholelwa kwezingane amakhaya amasha eziqhamuka kubantu.

4. UMTHELELA WEZEZIMALI UMBUSO ONGAHLE UHLANGABEZANE NAZO

Iningi lezichibiyelo eziphakanyiswe ilo Mthethosivivinywa zihlobene nokusebenza okujwayelekile okuhlobene nezindaba ezithile ezenziwe umgomo ongaphansi kwalo Mthetho. Ngalesi sizathu, ngalokho sekuvele kucatshangiwe ngemithelela yezezimali ngesikhathi kwenziwa isabiwomali salezi zindaba okukhulunywa ngazo selokhu kwasebenza lo Mthetho. UMnyango WezokuThuthukiswa KoMphakathi wafuna ukwazi izindleko zalo Mthethosivivinywa kanye nokuhambisana nawo kanti imiphumela yakhombisa ukuthi izindleko zalo Mthethosivivinywa sezizonke kulindeleke ukuthi zibe ama-R32 427 wamabhiliyoni kunyaka wezi-2020/21 zikhuphukele kuma-R 58.353 wamabhiliyoni kunyaka wezi-2028/29. Lezi zichibiyelo zokuhlinzekela izikhungo zokufundiswa kwezingane zisencane zizoba nomthelela omkhulu esifundazweni.

5. INQUBO YEPHALAMENDE

5.1 ABeluleki BoMbuso KwezoMthetho kanye noMnyango WezokuThuthukiswa KoMphakathi banombono wokuthi kufanele ukuthi uMthethosivivinywa usetshenziswe ngokulandela inqubo ebekwe imigomo yesigaba 76 soMthethosisekelo.

5.2 ABeluleki BoMbuso KwezoMthetho banombono wokuthi asikho isidingo sokuthi kuthunyelwe lo Mthethosivivinywa eNdlini KaZwelonke YabaHoli BoMdabu ngokulandela isigaba 18 (1) (a) soBuHoli BoMdabu kanye noHlaka LoMthetho WokuBusa, wezi-2003 (uMthetho uNo. 41 wezi-2003), njengoba ungenayo imigomo ephathelene nomthetho wezomdabu noma amasiko emiphakathi yomdabu.

5.3 Ngaphezulu kwalokho, sekuvunyiwe uKuhlolwa KoMthelela WezeNhlalo-Mnotho okwaziwa ngokuthi i-Socio-economic Impact Assessment (SEIAS) efanelekile.

USUKU …………………………………….
UMNYANGO WEZOKUTHUTHUKISWA KOMPHAKATHI