

**IKOMITJHINI YOKUBUYEKEZWA KWEMITHETHO YE-SA: I-ISSUE PAPER 35: IPHROJEKTHI YE-144: IPHENYO LOMTHETHO WEPALAMENDE OTJHEJE UMTJHADO OWODWA: IIMBUZO**

***A. Iimbuzo ephathelene nomthetho wepalamende otjheje umtjhado owodwa nofana umthetho wepalamende otjheje eembalwa nofana umthetho wepalamende otjheje ubudlelwano beenthandani ezingakatjhadi***

1.46 Ekupheleni komnyaka we-1990s i-SALRC yatjheja bonyana ukuthalalisa endabeni ephathelene nokubunjani komthetho otjheje umtjhado begade kunesidingo ngokwesigatjana sama-30 kanye nesama-31 zomTlolo wamaLungelo woBuntu. Nangabe amalungelo asisekelo adinge imithetho yepalamende ehlukeneko ngaleso isikhathi, abaphenduli beembuzo babona kutjhuguluke ini kwangalesi isikhathi?<sup>1</sup>

1.47 Inga-kghani kufanele iSewula Afrika iragele phambili nemilayo yemithetholawulo ehlukehlukeneko yemihlobo ehlukehlukeneko yeemtjhado?

1.48 Kungaba ngibuphi ubuhle nobumbi bomthetho wepalamende otjheje okukodwa nofana obumbeneko ondlala irhelo elibumbeneko leemfuno zayo yoke iimtjhado?

1.49 Kungaba ngibuphi ubuhle nobumbi bomthetho wepalamende otjheje okumbalwa omumethe zoke iimfuno ezihlukehlukeneko zayo yoke iimtjhado?

1.50 Nangabe nanyana umthetho wepalamende obumbeneko nofana otjheje okumbalwa uyamukelwa, inga-kghani kufanele umthetho wepalamende uqalelele iimtjhado kwaphela begodu nomthetho ohlukileko wobudlelwa beenthandani ezingakatjhadi wamukelwe, nofana kufanele umthetho wepalamende uqalelele kokubili iimtjhado kanye nobudlelwano beenthandani ezingakatjhadi? Kungaba ngibuphi ubuhle nobumbi bokukhethokhu?

1.51 Nangabe nanyana umthetho wepalamende obumbeneko nofana otjheje okumbalwa uyamukelwa, inga-kghani kufanele undlale kwaphela iimfuno zeemtjhado esemthethweni begodu/nofana ubudlelwano beenthandani ezingakatjhadi, nofana kufanele uqalelele iimphumela yangokomthetho yobudlelwano ubude besikhathi esizabuthatha begodu nalokha buphelako? Kungaba ngibuphi ubuhle nobumbi bokukhethokhu ngakhunye?

***B. Iimbuzo ephathelene nehlathululo yomtjhado***

2.3 Umthetho ohlongoziweko kufanele uwuhlathulule njani umtjhado?

2.4 UKwamukelwa komThetho wemiTjhado yeSintu kuvumela isithembu begodu nomtshemo womThetho wemiTjhado yama-Muslim nawo uqalelela ngokufanako isithembu. Inga-kghani kufanele umthetho obonelwa phambili lo wenze isiqalelelo seemtjhado yesithembu, begodu nangabe kunjalo, njani?

2.5 Yini eyakha ubudlelwano beenthandani ezingakatjhadi engenza abalingani bonyana babelane ngokuvikelwa mthetho ngokuya ngomthetho wepalamende otjheje okumbalwa?

<sup>1</sup> Iinomboro zendima zitshwaya iinomboro ezikhambisana nendima ngaphakathi kwe-Issue Paper 35.

C. *limbuzo ephathelene nemvumo kanye namandla wokutjhada?*

2.17 Inga-kghani ukuhlolwa kanye neemfuno zangokomthetho komthetho ojwayelekileko ongakatlolwa okusetjenziswako ukuqunta ngamandla wokulungela ukutjhada ookudinga bonyana amalunga womabili abe khona lokha nokuphethwa umtjhado ngokwaneleko nofana sikhona isidingo setjhuguluko emthethweni weSewula Afrika?

2.18 Inga-kghani abaphenduli beembuzo babona bonyana umjameli ogunyaziweko kufanele avunyelwe ukujamela ilunga ekutjhadeni?

2.19 Inga-kghani likhona isekelo lamagadango womthetho elitjheja ngokwaneleko ukuzijamela kanye nemvumo efanelekileko yokuthatha iinqunto mayelana nomtjhado?

2.20 Kufanele umthetho ohlongozliwe lo udinge bunqopha bonyana amalunga abe sebujameni obulungileko ngokwengqondo ukungena emtjhadweni njengendlela kwenza ngayo umThetho womTjhado we-*Australia* kilokhu?

2.21 Inga-kghani kufanele imvumo yomfazi wokuthoma ifuneke nangabe umlinganakhe omduna ufisa ukwenza umtjhado wesibili?

D. *limbuzo ephathelene nobuncani beminyaka yobudala yokutjhada*

2.28 Inga-kghani ababambisani bayavumelana bonyana ukutjhayisana ngokwamaphuzu phakathi komThetho womTjhado, uKwamukelwa kweemTjhado yeSintu kanye ne-*Civil Union Act* ngokuphathelene nobuncani beminyaka yobudala yokutjhada bonyana kufanele kulungiswe?

2.29 Inga-kghani abaphenduli beembuzo bayavumelana bonyana iSewula Afrika inesibopho sokukhambisana neensetjenziswa zeentjhabatjhaba kanye nezesityingi ukwenzela ukubeka ubuncani obufanako beminyaka yobudala yokutjhada eli-18 ngaphandle kwamalungelo akhethekileko wemvumo yababelethi, amakhotho, nofana nanyana ngisiphi esinye isiphathiswa ukukhandela ukutjhadwa kwabentwana nofana ukungena ebudlelwaneni beenthandani ezingakatjhadi?

E. *limbuzo ephathelene nokuphiwa isaziso nofana iimfuno zelayisensi yomtjhado*

2.32 Inga-kghani abaphenduli beembuzo bayavumelana nokwethulwa ngabutjha kokuphiwa kwesaziso kanye nendaba yelayisensi yomtjhado eSewula Afrika?

2.33 Inga-kghani abaphenduli beembuzo bacabanga bonyana ukuphiwa kwesaziso nofana indaba yelayisensi yomtjhado kuzakuba nesandla ekuvikeleni iinrhuluphelo zikarhulumente emitjhadweni engenelweko?

2.34 Nangabe ipendulo isehlangothini lokuvuma ngiliphi ilwazi ekufanele limumathwe sisaziso?

F. *limbuzo ephathelene nendima yabatjhadisi*

2.41 Sitjheja bonyana umThetho womTjhado kanye nomunye umthetho uhlatulula iimphathiswa kanye neensebenzi ngokuphathelene nokuphethwa kwemitjhado. Inga-kghani

abaphenduli beembuzo bayazisekela iimphathiswa kanye nezinye iinsebenzi zokutjhadisa ezibandakanyeka ekambisweni yokuqinisekiswa kanye nokutloliswa kwananyana ngimiphi nofana yoke imihlobo yeemtjhado? Nangabe akusinjalo, inga-kghani abaphenduli beembuzo bayahlongoza nanyana ngiyiphi enye indlela engathathwa?

2.42 Nangabe abaphenduli beembuzo basekela ukubandakanyeka kweemphathiswa ezitjhadisako kufanele kube ngiziphi iimfuno zokubandakanyeka kwabo?

2.43 Nangabe iimphathiswa ezitjhadisako kusafanele zibandakanyeke ekambisweni yokuqinisekiswa kweemtjhado kufanele kube yini umsebenzazo: ukugadangisa umtjhado, ukusiza ngokutloliswa komtjhado nofana nanyana yini enye ukwenzela ukupha ubufakazi bomtjhado ngeminqopho yangokomthetho?

### **G. Iimbuzo ephathelene nokutloliswa komtjhado**

2.63 Sitjhejile ngehla bonyana i-DHA isekela ukutloliswa kwayo yoke iimtjhado. Inga-kghani abaphenduli beembuzo bayakusekela ukutloliswa kwemtjhado?

2.64 Inga-kghani kufanele ukubhalelwa kuwutlolisa kukhinyabeze ukuba semthethweni komtjhado?

2.65 Nangabe umtjhado ungaba semthethweni nanyana ungakatloliswa, inga-kghani kufanele kube nezinye iindlela zokuqinisekisa ukuba khona komtjhado? Kungaba ngiziphi iindlelezo?

2.66 Inga-kghani kufanele kutlhogeke bonyana amalunga womabili atjhadako ukuthi atlolise umtjhado nofana kufanele ilunga linye likhona ukutlolisa? Nangabe ilunga linye lingakghona ukutlolisa umtjhado, ngiliphi ilwazi begodu neendlela zekambiso ezingatlhogeke bonyana kukhandeleke ukutloliswa kweemtjhadosophaza?

2.67 Inga-kghani kufanele amalunga akhona ukutlolisa iimtjhado kunanyana ngisiphi isigaba ngemva kwesiphetho sabo? Kungaba ngiziphi iinzuzo kanye nobumbi bokuvumela ukutloliswa kunanyana ngisiphi isikhathi ngaphambi kokuphela komtjhado?

2.68 Inga-kghani kufanele ubudlelwano beenthandani ezingakatjhadi butloliswe ukwenzela ukupha abalingani amalungelo wangokomthetho nofana kufanele ukutloliselwe ukusetjenziselwe ukuqinisekisa kwaphela ukuba khona kobudlelwano? Nofana kufanele ukutloliswa kungatlhogeke ebudlelwani beenthandani ezingakatjhadi?

2.69 Nangabe ubudlelwano beenthandani ezingakatjhadi kufanele butloliswe, ngiliphi ilwazi ekufanele litlhogeke begodu kungaba ngiziphi indlela yekambiso elungele khulu ukutlolisokho?

2.70 Nangabe ukutloliswa kobudlelwano beenthandani ezingakatjhadi kusetjenziswa kwaphela njengobufakazi bobudlelwano, ngiziphi ezinye iindlela ekufanele zibe khona ukwenzela ukuqinisekisa ukuba khona kobudlelwano begodu ngibuphi ubufakazi ekufanele buthathwe njengobuliqiniso bobudlelwano?

2.71 Inga-kghani ikhona nanyana ngimiphi eminye imiraro ephathelene nokutloliswa kweemtjhado abaphenduli beembuzo abafisa ukuyiveza nekungileyo edinga itjhejo elingeneleleko ukuya phambili?

#### **H. Iimbuzo ephathelene neminyanya yemitjhado kanye nesiphakamiso nofana ifomula evunyelweko yomtjhado**

2.77 Esibaweni se-DHA sephenyweli kuthiwe umbuso kufanele ungabi nesirhuluphelo endleleni ekwenziwa ngayo imisebenzi yezekolo kanye nekambiso yamasiko emnyanyeni womtjhado. UmThetho womTjhado kanye ne-*Civil Union Act* ibeka ifomula ekufanele isetjenziswe ngesikhathi seminyanya ethileko yomtjhado. Inga-kghani abaphenduli beembuzo bayavumelana nayo begodu nangabe abavumelani nayo kubayini?

2.78 Inga-kghani abaphenduli beembuzo babona bonyana ifomula yomtjhado ebekiweko ibenomfakela ngananyana ngiyiphi indlela ekuphumeleliseni isiqinisekiso sangokomthetho sokuveza bonyana umtjhado mbala wenziwe, begodu nangabe kunjalo njani?

#### **I. Iimbuzo ephathelene nemiphumela yangokomtjhado emitjhadweni**

2.86 Nangabe kunesekelo lomthetho wepalamende otjheje umtjhado owodwa nofana umthetho wepalamende otjheje imitjhado embalwa, kufanele uqalelele ini ngokuphathelene nepahla yabatjhadileko begodu kungaba yini umthelelawo emthethweni okhona?

2.87 Ithini iimbono yabaphenduli beembuzo ngokuphathelene neemphumela yangokomtjhado kiyo yoke imitjhado kanye nobudlelwano beenthandani ezingakatjhadini nawufakwa ngaphasi kwelawulo lomthetho wepalamende otjheje umtjhado owodwa nofana umthetho wepalamende otjheje iimtjhado embalwa?

2.88 Abaphenduli beembuzo baphiwe isibawo bonyana batshwaye godu bonyana inga-kghani ikhona eminye imiraro ephathelene nepahla yabatjhadileko ekufanele itjhejwe yi-SALRC.

#### **J. Iimbuzo ephathelene nokusekelwa komlingani**

2.100 Kwenziwa iimpakamiso ngaphambilini bonyana kwamukelwe ukusekelwa komlingani begodu nebuja meni lapho kunganamtjhado khona otlolisiweko kanye nesibopho esamukelwa mthetho othwesa isibopho sembadalo yesekelo. Inga-kghani kufanele umthetho wamukele isibopho esimthethweni sokusekelana phakathi kwabalingani abangakatjhadini?

2.101 Inga-kghani kufanele isibopho sokusekela silulekele ebujameni lapho munye wabalingani abangakatjhadini abe kobunye ubudlelwano beenthandani ezingakatjhadini nofana umlingani osemtjhadweni? I-SALRC izakutjheja bonyana umfakela owenziwe baphenduli beembuzo uyatjhejwa ephenyweni elifanelekileko, kungaba sibuyekezo sesondlo nofana umthetho wepahla yabatjhadileko.

#### **K. Umbuzo ophathelene neemvumelwano ezenziwe ngaphambi komtjhado mayelana nepahla begodu namandla wekhoti ekwenzeni imilayo engathathi ihlangothi**

2.107 Inga-kghani kufanele umthetho wepalamende otjheje umtjhado owodwa wenze isiqalelelo sokuphethwa, ukutloliswa kanye nokuqinisekisa iimvumelwano ezenziwe ngaphambi komtjhado?

#### **L. Umbuzo ophathelene nokuqedwa kobudlelwano ngaphandle kokubandakanya ikhoti kanye nesinye isombululo somraro weendabeni zomndeni**

2.114 Njengombana i-SALRC yenza iphenyo elinqophene nesombululo sombango ophathelene neembango yomndeni kusebaleni bonyana i-SALRC ayifuna ukuphindaphinda imizamayo kodwana kunalokho ifanele isebenzise iinsetjenziswa zayo ngendlela efanelekileko. Nangabe abaphenduli beembuzo baneembono ngokuthi enye indlela yesombululo sombango ingasetjenziswa njani ukurarulula iimbango yomthetho womndeni, bayabawa bonyana bethule imibonwabo ku-SALRC ukwenzela bonyana itjhejwe njengengcenywe yamanye amaphenyo esele enziwe yi-SALRC. Iimfakela izakutjhejwa emaphenyweni lawo ekuseni phambili umbono wabaphenduli beembuzo.

**M. Umbuzo ophathelene neemtjhadosophaza nofana iimtjhado yomgunyathi**

2.120 Abaphenduli beembuzo bayabawa bonyana baphe iinhlongozo zokobana iimtjhadosophaza le ingakhandelwa njani begodu nokuthi kungenziwani ngayo ngemva kokuphethwa kwayo?