I-OFISI KAMONGAMELI

Inombolo 1521 4 Oktobha 1995

Unombolo 58 ka-1995: UMthetho weGunya lemiGangatho-mfundo yoMzantsi Afrika ka-1995.

Kuyaziswa ukuba uMongameli uwuvumile lo Mthetho ulandelayo othe wapapashwa ukwazisa uluntu jikelele.

UMTHETHO

Ukubonelela ngophuhliso nokwenziwa koPhahla lwemiGangatho-mfundo yesiZwe, ngenxa yesi sizathu ukuseka iGunya lemiGangatho-mfundo yoMzantsi Afrika nokubonelela ngemicimbi emayelana noku:

Inguqulelo yesiNgesi isayinwe nguMongameli (uvunywe ngomhla wama-28 Septemba 1995)

UVUNYWE yiPalamente yeRiphablikhi yoMzantsi Afrika, ngolu hlobo lulandelayo:

Ingcaciso

1. Kulo Mthetho, ngaphandle kokuba imeko ibonisa ngolunye uhlobo -

 i. "IGunya" lithetha iGunya lemiGangatho-mfundo yoMzantsi Afrika elisekwe licandelo 3; (viii)
 ii. "inkampani" ithetha inkampani okanye imbumba ehlangeneyo ebhaliswe phantsi kwawo nawuphina umthetho obonelela ngemfundo okanye uqeqesho lwabaqeshwa bayo okanye abathengi.
 iii. "UmLawuli-Jikelele" uthetha uLawuli-Jikelele wezeMfundo; (i)
 iv. "UMphathiswa" uthetha uMphathiswa wezeMfundo, kwaye ngenxa yamacandelo 4(2), 4(3), 4(4), 4(5), 4(6), 5(1), (c), 11, 13(2), 14 kunye no-15 (2), uthetha uMphathiswa wezeMfundo ekuthetha-thethwano noMphathiswa wezemiSebenzi; (iv)
 v. "UPhahla lwemiGangatho-mfundo yesiZwe" luthetha uPhahla lwemiGangatho-mfundo yesiZwe oluvunywe nguMphathiswa ukulungiselela ukubhaliswa komgangatho wemfundo yesizwe; (vii)
 vi. "umbutho wootitshala" uthetha umbutho okanye iyuniyoni elilungu leKhansile yobuDlelwane beNgqesho kwezeMfundo esekwe ngokoMthetho nobuDlelwane beNgqesho kwezeMfundo, ka-1993 (uMthetho Nombolo 146 ka-1993) kwaye ivunyiwe nguMphathiswa ngezizathu zalo Mthetho (ii)
 vii. "ukumisela" kuthetha ukumisela ngomgaqo; (x)
 viii. "umGangatho-mfundo" uthetha ukuvunywa ngokusesikweni kokufumaneka kwamanani noluhlu lwezifundo nezinye iimfuneko kwizigaba ezithile zoPhahla lwemiGangatho-mfundo yesiZwe njengoko uya kuthi umiselwe ngamaziko afanelekileyo abhaliselwe ukwenza loo nto liGunya

 lemiGangatho-mfundo yoMzantsi Afrika; (iv)

 ix. "umgangatho" uthetha ukuvunywa ngokusesikweni kokufumaneka kwamanani noluhlu lwezifundo nezinye iimfuneko kwizigaba ezithile zoPhahla lomGangatho-mfundo wesiZwe njengoko uya kuthi umiselwe ngamaziko afanelekileyo abhaliselwe ukwenza loo nto liGunya lomGangatho-mfundo yoMzantsi Afrika; (iv)
 x. "-bhalisiwe" kuthetha ukubhaliswa ngokoPhahla lemiGangatho-mfundo yesiZwe; (iii)
 xi. "umgangatho" uthetha amaxwebhu abhalisiweyo eziphumo zemfundo noqeqesho ezifunwayo kunye neenqobo zovavanyo ezinxulumene nazo. (ix)

Iinjongo zoPhahla lwemiGangatho-mfundo yesiZwe

2. Iinjongo zoPhahla lwemiGangatho-mfundo yesiZwe zezi-

 a. ukudala uphahla olubumbeneyo lwesiZwe ukulungiselela impumelelo yemfundo;
 b. ukulungiselela ukufikelela, intshukumo kunye nenkqubela yemfundo, uqeqesho kunye neendlela zemisebenzi;
 c. ukuphucula ixabiso lemfundo noqeqesho;
 d. ukukhawulezisa ukubuyekezwa kocalu-calulo olwagqithayo kwezemfundo, uqeqesho kunye namathuba engqesho; ngoko ke
 e. lincedise ekuphuhlisweni okupheleleyo lomfundi ngamnye kunye nophuhliso lwezoqoqosho nentlalo-ntle yesizwe ngokubanzi.

Ukusekwa kweGunya lemiGangatho-mfundo yoMzantsi Afrika

3. Apha ke kusekwa umntu-mthetho obizwa ngokuba liGunya lemiGangatho-mfundo

UmGaqo-siseko weGunya

4. (1) IGunya liya kuba nosihlalo oya kuthi amiselwe ngokwecandelwano (2), liya kuba namalungu aya kuthi amiselwe ngokwecandelwano (3) no- (4), kunye negosa elilawulayo eliya kuthi limiselwe ngokwecandelwana (7).

 (2) UMphathiswa uya kumisela umntu onamava nobugcisa kwimicimbi emalunga nemisebenzi yeGunya ukuba abe nguSihlalo weGunya,

 (3) UMphathiswa uya kumisela aba bantu balandelayo njengamalungu eGunya, ngokwendlela ebonelelweyo kwicandelwana (4)-

 a. ilungu elinye elonyulwe nguMlawuli-jikelele;
 b. ilungu elinye elonyulwe ziintloko zamasebe emfundo kumaphando;
 c. ilungu elinye elonyulwe nguMlawuli-Jikelele: ezemiSebenzi;
 d. ilungu elinye elonyulwe yiBhodi yesiZwe yoQeqesho;
 e. amalungu amabini onyulwe yimibutho yesizwe emele imibutho yabasebenzi;
 f. amalungu amabini onyulwe yimibutho yesizwe emele imibutho yoosomashishini;
 g. ilungu elinye elonyulwe yiKomiti yeeNqununu zeeYunivesithi esekwe ngokwecandelo 6 loMthetho weeYunivesithi, 1955 (Umthetho Nombolo 61 ka-1995);
 h. ilungu elinye elonyulwe yiKomiti yeeNqununu zeeTekhnikhon esekwe licandelo 2 loMthetho weeTekhnikon, 1993 (uMthetho Nombolo 125 ka-1993);
 i. ilungu elinye elonyulwe liziko lesizwe elimele iikholeji zootitshala elivunywe nguMphathiswa ngenxa yesi sizathu;
 j. ilungu elinye elonyulwe liziko lesizwe elimele iinqununu zeekholeji zobugcisa elivunywe nguMphathiswa ngenxa yesi sizathu;
 k. ilungu elinye elonyulwe yimibutho yesizwe emele iikholeji ezingezezobutitshala okanye ezobugcisa, evunyiweyo nguMphathiswa ngenxa yesi sizathu;
 l. ilungu elinye elonyulwe yimibutho yesizwe emele icandelo lemfundo noqeqesho lwabadala, evunyelwe eso sizathu nguMphathiswa;
 m. ilungu elinye elonyulwe yimibutho yesizwe emele icandelo lokuphuhlisa abantwana abancinci elivunywe nguMphathiswa, elivumela eso sizathu;
 n. amalungu amabini onyulwe yimibutho yootitshala
 o. amalungu amabini onyulwe yimibutho yeziswe emele abahlohli kunye nabaqeqeshi, evunywe nguMphathiswa, eyivumela esi sizathu;
 p. ilungu elinye elonyulwe yimibutho yesizwe emele iimfuno zemfundo eyodwa elivunywe nguMphathiswa, elivumela esi sizathu;
 q. amalungu angagqithanga kwisithandathu anyulwe nguMphathiswa ngokubona kwakhe;
 r. amalungu angagqithanga kwisibini axokonyezelelwe liGunya ngokubona kwalo aza avunywa nguMphathiswa ukuba onyulwe.

 (4) Ukwenzela ukufumana abatyunjiweyo njengoko kubonakalisiwe kwicandelwana (3), uMphathiswa uya kwenza isaziso kwiGazethi somnqweno wakhe wokonyula amalungu eGunya, kwaye ke uya kucela nawuphina umntu okanye umbutho kwimimandla ekuthethwa ngayo kwicandelwana (3) ukuba angenise amagama abantu abathi ngenxa yesakhono sabo okanye amava abo kwimicimbi emayelana nemisebenzi yeGunya babe kanti bafanelekile ukuba bangonyulwa ukuba babe ngamalungu eGunya, kwaye ke xa kungeniswa amagama uya kujongwa umba wokumelwa kwabantu ngabantu.

 (5) Ukwenzela utyumbo lwabantu ekuthethwa ngalo kumhlathi (n) wecandelwana (3), iya kuba lutyumbo olunye kuphela oluya kwenziwa liziko okanye umbutho.

 (6) Ilungu leGunya, ngaphandle kwegosa elongameleyo, liya kusibamba isikhundla ixesha elingagqithanga kwiminyaka emithathu, njengoko uMphathiswa eya kuthi abone ngexesha lokungena kwalo esikhundleni eso, kwaye ke ilungu lingaphinda lonyulelwe elinye ithuba lokubamba isikhundla xa lifikelele esiphelweni ithuba lokuqala.

 (7) UMphathiswa uya kuthi aqwalasele izibonelelo zecandelwana (3) xa etyumba.

 (8) Amalungu ekuthethwa ngawo kwicandelwana (2) naku- (3) aya kuthi ngemvume yoMphathiswa onyule umntu ofanelekileyo ukuba abe ligosa elilawulayo, phantsi kweemeko zokwalathelwa eziya kuthi zimiselwe liGunya ngemvume yoMphathiswa, kwakunye nemvume yoMphathiswa wezeziMali.

Imisebenzi yeGunya

5. (1) Phantsi kwezibonelelo zecandelwana (2), iGunya liya-

 a. (i) kongamela uphuhliso loPhahla lwemiGangatho-mfundo yesiZwe, kwaye

 (ii) liqulunqe lipapashe iipholisi/inkqubo kunye neenqobo zovavanyo –

 aa. ukubhaliswa kwamaziko anoxanduva lokuseka umgangatho wemfundo noqeqesho;
 bb. ukuvuma amaziko anoxanduva lokongamela nokuphicotha oko kuzuziweyo ngokwemigangatho okanye imigangatho-mfundo

 b. ukongamela ukwenziwa koPhahla lwemiGangatho yesiZwe, kubandakanywa-

 i. ukubhaliswa okanye ukuvunywa kwamaziko ekuthethwe ngawo kumhlathi (a) nokunikezelwa kwemisebenzi kuwo;
 ii. ukubhaliswa kwemigangatho yemfundo yesizwe;
 iii. amanyathelo okuqinisekisa ukuthotyelwa kwezibonelelo zokuvunywa; kunye
 iv. namanyathelo okuqinisekisa imigangatho kunye nemigangatho-mfundo ebhalisiweyo iyalingana neyelizwe;

 c. ukucebisa uMphathiswa kwimicimbi emalunga nokubhaliswa kwemigangatho yemfundo;
 d. ukuba noxanduva lokulawula izimali zeGunya.

 (2) iGunya liya kulandela iinjongo zoPhahla lwemiGangatho-mfundo yesiZwe, njengoko kuthethwa ngayo kwicandelo 2 lize lenze imisebenzi yalo ekuthethwa ngayo kwicandelwana (1)-

 a. emva kokudibana kunye nokusebenzisana namasebe karhulumente, amaziko abekho ngomthetho, iinkampani, amaziko kunye nemibutho enoxanduva lwemfundo, uqeqesho nokunikezela ngezatifikethi zemigangatho eya kuthi ichatshwazelwe luPhahla lwemiGangatho-mfundo yesiZwe;
 b. malunga nokufaneleka kwePalamente kunye nezindlu zowiso-mthetho kumaphondo ngokwecandelo 126 lomGaqo-siseko, namalungelo, amandla kunye nemisebenzi yamaziko alawulayo eyunivesithi okanye iiyunivesithi kunye netekhnikhoni okanye iitekhnikhoni njengoko kubonelelwe kuwo nawuphina uMthetho wePalamente.

Imisebenzi yegosa elilawulayo

6. (1) Igosa elilawulayo liya-

 a. kuba noxanduva kwiGunya ekwenzeni imisebenzi yalo ngokwalo Mthetho;
 b. kongamela amagosa nabaqeshwa beGunya; kwaye ke
 c. liya kuba ligosa elongamayo lweGunya elinoxanduva lokubuzwa ngezimali ezifunyenweyo, ezihlawuliweyo kunye nempahla ethengiweyo liGunya.

 (2) Igosa elilawulayo liya kuncediswa kwimisebenzi yalo ngamagosa kunye nabaqeshwa beGunya njengoko liya kuthi lona libachongele ukwenjengalo ngokwecandelwana (1).

Amandla eGunya

7. (1)

 a. IGunya lingamisela iikomiti lize lichongele abantu abangengomalungu eGunya ukuba babe ngamalungu eekomiti.

 b. iGunya liya konyula usihlalo wazo zonke iikomiti.

 c. iGunya linakho ukuyichitha okanye liyihlenga-hlengise ikomiti.

 d. IGunya linakho ukunikezela ngamandla alo kuyo nayiphina ikomiti, kungabandakanywa amandla ekubhekiswa kuwo kweli candelo, kodwa ke iGunya aliyi kuxuthwa amandla elinikezele ngawo, kwaye lingaphinda liwathathe loo mandla belinikezele ngawo.
 e. IGunya lingazijika okanye lizichithe izigqibo zekomiti enjalo.

 (2) IGunya linokusombulula iiyantlukwano ezimalunga nokwenziwa kwemisebenzi yalo ekuthethwa ngayo kwicandelo 5.

 (3) IGunya linokufumana kwaye linikise ngee-asethi.

 (4) IGunya lingenza ukuba kwenziwe uphando elilubona lufanelekile ngokunxulumene nomsebenzi walo.

 (5) IGunya lingenza nawuphina umsebenzi anokuthi uMphathiswa alinike onento yokwenza noPhahla lwemiGangatho-mfundo yesiZwe.

Iintlanganiso zeGunya neekomiti

8. (1) Iintlanganiso zeGunya okanye iikomiti ziya kubanjwa ngaloo maxesha nakwezo ndawo aya kuthi uSihlalo weGunya okanye wekomiti, lowo uchaphazelekayo, abone kufanelekile.

 (2) Intlanganiso yeGunya okanye yekomiti ayisayi kwenziwa into engento ngenxa yesithuba esikhoyo kwiGunya okanye kwikomiti.

 (3) Ukuba uSihlalo weGunya okanye wekomiti akakho entlanganisweni yeGunya okanye yekomiti, amalungu akhoyo aya konyula phakathi kwawo umntu oya kuchophela intlanganiso.

 (4) IGunya liya kubeka imiqathango emalunga nokuhamba kweentlanganiso zalo okanye ukuhamba kweentlanganiso zekomiti, kubandakanywa nekhoram yezo ntlanganiso.

Ukushiywa kwesikhundla ngamalungu eGunya

9. USihlalo okanye naliphina elinye ilungu leGunya ekuthethwe ngalo kwicandelo 4(3) liya kusishiya isikhundla salo ukuba-

 a. ilifa/izinto umntu anazo zithinjiwe okanye ungene kwizibhambathiso ezithile kunye nabo abatyalayo;
 b. ubanjiwe njengongekho zingqondweni phantsi kwawo nawuphina umthetho;
 c. uye akabikho kwiintlanganiso zeGunya ezintathu ezilandelelanayo engenamvume yokungabikho evela kwiGunya;
 d. usishiyile isikhundla sakhe ngokuthi abhale incwadi yokubeka phantsi eya kuMphathiswa;
 e. uthe ngexesha abambe isikhundla wafunyaniswa enetyala waza wagwetywa engakhethiswanga ukuba makahlawule.

Izimali zeGunya

10. (1) Izimali zeGunya ziya kuba zezi:

 a. iimali ezinikezelwe yiPalamente ukuba kuzuzwe ngazo iinjongo zeGunya;
 b. iimali ezifunyenwe liGunya ngokwemiqathango eyenziwe ngokwecandelo 14;
 c. iimali ezifunyenwe ngokweemali-mboloko ezonyuswe liGunya ngokuvuma koMphathiswa, mvume leyo enikwe ngokwemvumelwano noMphathiswa wezeziMali;
 d. Imali-zipho, iminikelo kunye nemali eyintlawulo yokushicilela efunyenwe liGunya; kunye
 e. nenzala eze ngenxa yotyalo-mali.

 (2) IGunya liya kuyisebenzisa imali ekuhlawuleni iindleko zalo elizenze xa lisebenza imisebenzi yalo.

 (3)

 (a) IGunya liya kuthi kunyaka wezimali ngamnye, ngendlela nexesha eliya kuthi libekwe nguMphathiswa, lingenise uxhwebhu oluqulathe intelekelelo yengeniso nengcitho yalo kunyaka ongenayo.

 (b) Iimali ekuthethwa ngazo kwicandelwana (1) (a) ziya kusetyenziswa ngokwendlela oluvunywe ngayo uxwebhu ekuthethwa ngalo kumhlathi (a), kananjalo, imali engasetyenziswanga iya kuthathwa njengengeniso kunyaka-mali olandelayo.

 (4) IGunya lingathi lilawulwa zizibonelelo zecandelwana (3)(b), lityale inxenye yezimali zalo ngaloo ndlela anokuthi ayivume uMphathiswa evumelana noMphathiswa wezeziMali.

 (5) IGunya lingathi libize okanye lirhoxise iifizi-

 a. ngokubhalisa okanye ukuvuma; kunye
 b. nangazo naziphina iinkonzo elithe lazinikezela.

Amagosa kunye nabaqeshwa beGunya

11. Lingathi iGunya lilawulwa yimiqathango yenkonzo emiselwe liGunya ngemvume yoMphathiswa evumelana yena noMphathiswa wezeziMali, liqeshe amagosa kunye nabaqeshwa njengoko libona kufanelekile ukwenzela ukwenza imisebenzi yalo ngokwalo Mthetho.

Izibonelelo kunye nomvuzo wamalungu eGunya kunye neekomiti

12. Usihlalo, nalo neliphina elinye ilungu leGunya, kunye nawuphina omnye umntu otyunjelwe ukuba abe lilungu lekomiti phantsi kwecandelo 7 (1) ongaqeshwanga ngokusigxina eburhulumenteni,uya kuhlawulwa ngolu hlobo, ngenxa yeenkonzo azinikezileyo kwimisebenzi yeGunya okanye ekomitini:

 a. imali yokukhwela, eyokutya nokulala kunye nezinye izibonelelo;
 b. kwimeko kasihlalo weGunya, kuya kubakho umvuzo owongezelelweyo, njengoko uMphathiswa eya kumisela, phofu evumelana noMphathiswa wezeziMali.

Ukuphicothwa kweencwadi nengxelo yonyaka

13. (1) Iincwadi zee-akhawunti kunye nezitetimente zezimali zeGunya ziya kuphicothwa ngumPhicothi-Jikelele ekupheleni konyaka-mali ngamnye.

 (2) Kuya kuthi zingaphelanga iinyanga ezintandathu emva kokuphela konyaka-mali ngamnye, iGunya lingenise kuMphathiswa ingxelo eya kuma ngendlela emiselwe nguMphathiswa ngokwemisebenzi yeGunya kuloo nyaka-mali, kunye nebhalans-shithi kunye nezitetimenti zengeniso nenkcitho eziphicothiweyo.

 (3) UMphathiswa uya kuzithi thaca ePalamente iikopi zengxelo, kubandakanywa nebhalans-shithi nezitetimenti zengeniso nenkcitho ekubhekiswa kuzo kwicandelwana (2). La maxwebhu uya kuwangenisa kwiintsuku ezili-14 emva kokuba ewafumene ukuba iPalamente ikwiseshoni yesiqhelo, okanye ke, ukuba iPalamente ayikho kwiseshoni yesiqhelo uya kuwangenisa kwiintsuku ezili-14 emva kokuqala kweseshoni yayo elandelayo yesiqhelo.

ImiGaqo

14. Igunya lingathi ngemvume yoMphathiswa, lenze imigaqo emalunga-

 a. nawuphina umcimbi ofunekayo okanye omiselweyo ngenxa yalo Mthetho;
 b. nezimali ekufuneka zihlawulwe iGunya malunga nemicimbi ekuthethwe ngayo kwicandelo 10 (5) (a) no- (b);
 c. nawuphina omnye umcimbi onommiselo ofunekayo okanye olungiselela ukuba lo Mthetho ukwazi ukusebenza kakuhle.

Izibonelelo zethuba lenguqu malunga namaziko akhoyo

15. (1) Naliphina iziko elimiselwe ngokomthetho elenza imisebenzi efana nale yeGunya njengoko ichazwe kwicandelo 5, liya kuqhubeka liyenza loo misebenzi de lichithwe okanye imisebenzi yalo iguqulwe ngokomthetho.

 (2) Akukho ziko elinjengeli kuthethwa ngalo kwicandelwana (1) liya kuthi lichithwe lide iGunya kunye neziko elo ziqwalasele iziphumo zolo chitho okanye inguqu kunye nokwenziwa koPhahla lwemiGangatho-mfundo yesiZwe kwenziwe nezindululo eziya kuMphathiswa.

 (3) Eli candelo alisayi kuchaphazela ziko lisekwe ngumthetho wabucala weyunivesithi.

Intloko emfutshane

16. Lo Mthetho uya kubizwa ngokuba nguMthetho wemiGangatho-mfundo yoMzantsi Afrika ka-1995.