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Umthetho i Interim Protection of Informal Land Rights Act

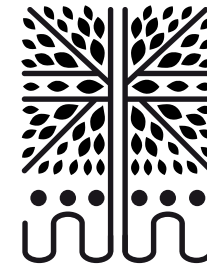
**NGABE IWAVIKELA KANJANI AMALUNGELO
WAKHO OMHLABA?**

Ibhalwe ngu Zenande Boozi

UMTHETHO I INTERIM PROTECTION OF INFORMAL LAND RIGHTS ACT

Ngabe iwavikela kanjani amalungelo wakho omhlaba?

Ibhalwe ngu Zenande Boozi



Ishicilelwe yi: **Land and Accountability Research Centre (LARC)**

I LARC isebenzisana nemiphakathi yasezindaweni zasemakhaya futhi ingaphansi kwesikhungo sezemfundo ephakeme ohlangothini lwezemithetho kwi nyuvesi yase Kapa. Baphinde basebenze ngokubambisana neminye imikhakha okubalwa nezinye izinhlangano ezizimele njengabo Alliance for Rural Democracy ukubhekela amalungelo ezemihlaba kubantu abakhele izindawo ezazibizwa ngezabelo ngesikhathi sikahulumeni odlule. Ibuye ibhekele imithetho neminye imigomo ethinta ukuhlala kwabantu bakulezindawo zasemakhaya.

UMTHETHO I INTERIM PROTECTION OF INFORMAL LAND RIGHTS ACT

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Ishicilelwe i:

Land and Accountability Research Centre (LARC)

*Lolwazi oluqukethwe kulencwadi aludayiswa kodwa
kuvumelekile ukulisebenzisa ngaphandle kokwenza inzuzo.*



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UMTHETHO I INTERIM PROTECTION OF INFORMAL LAND RIGHTS ACT

Ngabe uwavikela kanjani amalungelo akho ezemihlaba?

Ngesikhathi sobandlululo, amalungelo ezemihlaba abantu abamnyama ayengavikelwe ngezemithetho kanye nokwenza. Lokhu kuhlenganisa ubunikazi, ukuhlala, ukusetshenziswa kanye nokwengamela ngokwamasiko esintu kwakungabhekkelwe futhi kucindezela izigidi zabantu abamnyama ngokuvikela amalungelo abo.

UMTHETHOSISEKELO – IKHEFU KUSUKELA ESIKHATHINI ESEDLULE

Ngesikhathi kuqala ukusebenza komthethosisekelo omusha ngonyaka ka 1996, inhloso kwakuwukulungisa umonakalo wesikhathi esidlulile ngokuthi kuvikelwe futhi kuhlonishwe amalungelo abantu ezemihlaba ngokunika isiqiniseko esemthethweni salawo malungelo ayengavikelekile mandulo isikhathi samakhulu ngamakhulu eminyaka eseyadlulayo ngenxa yokubandlulula ngokwebala nezenzo ngemithetho yokucwasa nokubandlulula okwakuyinsavukela ngalesosikhathi

Kunezigaba ezimbili ezibalulekile kuMthethosisekelo eziqondene nokuvikelwa nokuphepha kwamalungelo ezemihlaba yemiphakathi. Isigaba 25(6) soMthethosisekelo mayelana nokuvikelwa kwamalungelo omhlaba:

Umuntu noma umphakathi onomhlaba ongaphophile ngesizathu semithetho eyayibandlulula ngokohlanga noma okwakuhutshwa unelungelo, ngendlela ehlinzekelwe nguMthetho wePhalamende, lobunikazi bomhlaba elivikelwe ngomthetho noma lokunikezwa usizo olufunayo.

Kuphinde kube nesigaba 25(9) kuMthethosisekelo esigunyaza iPhalamende ukuthi lishaye umthetho wokuvikela amalungelo emihlaba yemiphakathi:

25(9) *iPhalamende kufanele lishaye umthetho oshiwo esigatsheni sesithupha (6),*

Lokhu kusho ukuthi amalungelo omhlaba antengantengayo, angabhaliwe noma endabuko asevikelwe ngokoMthethosisekelo futhi iPhalamende kufanele liphase umthetho ozoqinisa lamalungelo (uphinde uvumele ukuthi lapho abantu bephucwa lamalungelo kufanele banikezwe isinxephezelo semali ngokusemthethweni).

UMTHETHO I INTERIM PROTECTION OF INFORMAL LAND RIGHTS (IPILRA)

Igama lomthetho elifinyeziwe libizwa I-IPILRA. Lomthetho waphasiswa ephalamende ngonyaka ka 1996 ngokusho komthethosisekelo wezwe izigaba 25(6) no 9 ukuze kuvikelwe amalungelo emiphakathi ngezomhlaba.

I-IPILRA ngomunye wemithetho yokufeza lenjongo ngesigaba 25(6) somthethosisekelo wezwe. Ubhekela amalungelo ezemihlaba ngokwezendabuko yesintu yemiphakathi eyakhele izindawo zasemakhaya nezaziwa ngokuthi izabelo. I-IPILRA inikeza isiqiniseko ngokwethembisa komthethosisekelo sokuvikela amalungelo ayentengantenga ngesikhathi -sengcindezelo nobandlululo futhi esasenziwa imithetho eyayishaywe ngalesosikhathi ukuze kubandlululwe ngokwemithetho, izezo nokuphatha kwangalesosikhathi nokungasahambisani nesimo esikhona senkululeko elethwe ukuba khona komthethosisekelo ezweni – amalungelo avikelwa yilomthetho kuhlenganisa lawo imiphakathi abawanikezwa ngokwezincwadi nezitifiketi zama PTOs ezazitholakala ngesikhathi sobandlululo – manje lamalungelo asevikelwa yilomthetho njengoba nakwezinye izindawo labo abanamatayitela bevikelekile ngokusemthethweni.

I-IPILRA kwakuhloswe ukuthi kube umthetho wesikhashana nje wonyaka owodwa kuphela ngaphambi kokuthi kuphasiswe umthetho omunye ogcwele ukuvikela lamalungelo esikhuluma ngawo lapha nokuthi uvikele imiphakathi ukuze bangaphucwa imihlaba yabo ngendlela engekho emthethweni, Awukho umthetho omusha osunguliwe selokhu kwabakhona lomthetho ochazwa lapha. I Phalamende liyawuvuselela minyaka yonke kusukela waqala ukusebenza.

Nakuba i-IPILRA ivikela amalungelo abantu basemakhaya, izikhulu zika hulumeni, abanikazi bemihlaba nezimantshi bajwayele ukukhombisa ukungawazi lomthetho. Ngenxa yalokhu, i-IPILRA ayisetshenziswa. I-IPILRA yenza amalungelo avikeleke ngokusemthethweni, futhi abantu banelungelo lokungavumi uma kulethwa ezentuthuko abangahambisani nayo noma bengayifuni ngoba izobaphuca amalungelo abo ezendabuko. Lapho abantu uma bengavumi, uhulumeni noma labo abeza nezentuthuko kufanele baye ezinkantolo baye kofaka isicelo sokwephuca labobantu imihlaba yabo.



UKUPHEPHA KWESIKHATHI SOKUHLALA NGOKUPHATHELENE NAMALUNGELO OKUSEBENZISA UMHLABA

Umuntu unamalungelo avikelekile ngenxa yokuthi lokhu kusemthethweni futhi bayakwazi ukuvikela ubunikazi, ukuhlala, ukusebenzisa kanye nokungena emhlabeni wakhe ngaphandle kokuphanyiswa abanye abantu noma izinhlaka zombuso.

Amalungelo avikelwe i-IPILRA

I-IPILRA ihlinzekela izinhlobo ezahlukene zamalungelo omhlaba angahlelekile kanye namasiko. Lezi zihlanganisa okulandelayo:

- Ilungelo **lokuhlala, lokusebenzisa**, noma **lokuthola umhlaba** otholakala kwelinye lamazwe angaphambili noma owawusezandleni ze South African Development Trust [SADT]. Lokhu kuzobandakanya amalungelo abantu abanawo ezindlini zabo, emasimini, emadlelweni kanye nezinye izinsiza zomhlaba ezabiwe njengamahlathi. I-IPILRA ihlinzekela futhi ivikela amalungelo aphethwe ngokomthetho wesintu kulezi zindawo.
- Amalungelo omhlaba abantu abahlomulayo ngokwe-trust edalwe ngumthetho ophasiswe yiPhalamende. Lokhu kuhlanganisa namalungelo abantu abahlala emhlabeni obhaliswe egameni leTrust efana ne **Ingonyama Trust**
- Amalungelo abantu ababenezitiketi zemihlaba ezibizwa ngama-PTO ngaphambilini njengoba kushiwo ngenhla
- Amalungelo anoma ngubani ohlale endaweni eyodwa (noma yikuphi eNingizimu Afrika) kusukela ekuqaleni kuka-1993 **njengokungathi ungumnikazi** womhlaba. Laba bantu babizwa ngabahlali abanenzuzo.

I-IPILRA ayibavikeli labantu abalandelayo:

- Abantu abanamalungelo okuhlala emapulazini bekhonzile, abalimayo noma abaqhashiwe ngokwezinkontileka.
- Abantu abanelungelo lesikhashana ngokuvumelana nomnikazi wendawo ahlala kuyona futhi azisiwe ukuthi lemvue ingahoxiswa umnikazi wendawo ngokuthanda kwakhe.

NGABE IWAVIKELA KANJANI AMALUNGELO EZEMIHLABA I-IPILRA?

I-IPILRA ithi abantu abanakuphucwa amalungelo abo ngaphandle kwemvume yabo. Ukwephucwa ngemvume kuhlanganisa indlela esemthethweni yokwenza lokhu futhi umuntu kumele anikezwe isinxephezelo uma evuma ukususwa emhlabeni wakhe. Lapho umuntu engavumi ukwephucwa amalungelo akhe omhlaba, lowo ofisa ukwenzenjalo kufanele aye enkantolo ukuze ivumelane naye.

Lapho umhlaba ugcinwe ngokuhlanganyela - okusho ukuthi umphakathi noma ingxenye yomphakathi egameni lamalungu alowo mphakathi noma iqembu - I-IPILRA icacisa ukuthi abantu balowo mphakathi bangaphucwa amalungelo abo kuphela ngokomthetho wesintu. Kodwa okungenani, uhlelo umphakathi olahla ngalo umhlaba womphakathi kumele uqinisekise ukuthi labo abathintekayo banxeshezela ngendlela efanele ngamalungelo omhlaba abalahlekelwa uwona.



UMPHAKATHI

I-IPILRA ichaza umphakathi njengeqembu labantu, noma ingxenye yabantu abasebenzisa umhlaba owodwa ngemithetho abavumelene ngayo. Lokhu kusho ukuthi izinqubo zingenziwa emazingeni ahlukehlukene kuhlanganisa nezigungu zomphakathi wonke owakhele izindawo ezilawulwa ngalomthetho.

I-IPILRA ibeka isilinganiso esincane samalungelo abantu nokuthi ngokwamasiko endabuko yiziphi izinto okufanele zilandelwe uma bezophucwa amalungelo abo ezemihlaba nokuhlanganisa okulandelayo:

- Lapho umphakathi uzothatha isinqumo sokwephuca omunye amalungelo ache ezemihlaba, kufanele iningi lezakhamizi zivumelane ngokugcwele. Lokhu kuchaza ukuthi wonke **umuntu endaweni oyilunga lomphakathi unamalungelo afanayo nawowonke umunty oyisakhamuzi nokudinga avume ukwephuca** amalungelo omhlaba wakhe.
- Ukwenza isiqiniseko sokuvumelana kweningi lezakhamizi, kufanele kubizwe **umhlangano womphakathi ophuthumayo** ukuze kuxoxiswane ngaloludaba. Isimemezelo somhlangano naso kufanele izakhamizi zaziswe ngokwanele ngosuku lokubamba umhlangano wokuxoxisana ngodaba olubaluleke kangaka.

“Isigaba 2(4) somthetho we IPILRA sithi: “Ukusebenzisa umhlaba okukhulunywa ngawo, isinqumo kufanele senziwe ngokuvumelana kwazonke izakhamuzi ezikhona kulowo umhlangano”

NGABE OBANI OKUFANELE BAHLONIPHE UMTHETHO WE IPILRA?

Izinhlizwe ze IPILRA zibophezela bonke abantu, kubandakanya no Hulumeni. Lokhu kusho ukuthi wonke umuntu ofisa ukuphuca amalungelo ezakhamizi kufanele baqale ngokuhlonipha lomthetho bawazi nokuthi uwavikela kanjani lamalungelo. Lapho kuthiwa wonke umuntu kukhulunywa ngabafisa ukuletha intuthuko futhi okuhlanganisa nabezimboni njengabambi bokutholakala ngaphansi komhlaba esingabala abazimayini, abazimele, abanikazi bezindawo ezilethela imisebenzi, abaholi bendabuko kanye nezeminyango yombuso.

Bonke okukhulunywa ngabo ngaphezulu **kumele baxoxisane nabanikazi balamalungelo angahlelekile ngaphambi kokusebenzisa imihlaba yabo**. Lapho imiphakathi ingavumelani nabafisa ukusebenzisa imihlaba yawo, leyontuthuko ayikho emthethweni futhi akuvumelekile ukuthi iqhubekela phambili. Abavumayo ukuphuca imihlaba, kufuneka banikezwe izinxephezelo.

YIZIPHI EZINYE IZINGQINAMBA EZIKHONA UMA KUSETSHENZIWA LOMTHETHO WE IPILRA?

I-IPILRA ithi abantu basemakhaya abanakuphuca amalungelo abo ngaphandle kwemvume yabo. Yize kunjalo, lokhu akwanele ngokugcwele futhi lomthetho kufanele uchibiyelwe kwenziwe amalungelo aphephe kakhulu kunakuqali. Ukwephuca ngemvume kuhlangukisa indlela esemthethweni yokwenza lokhu futhi umuntu kumele anikezwe isinxephezelo uma evuma ukususwa emhlabeni wakhe. Lapho umuntu engavumi ukwephuca amalungelo akhe omhlaba, lowo ofisa ukwenzenjalo kufanele aye enkantolo ukuze ivumelane naye.

Kudala izinhlangano ezizimele ezisebenza nemiphakathi (NGOs) kanye nabezinhlangano ezibunjwe imiphakathi (CBOs) bekhala ngokuthi awuqiniseke lomthetho we IPILRA futhi kwenziwe imizamo yokuthi uhlonishwe ngokugcwele. Kufanele lokuchibiyelwa kwalomthetho kwenziwe ngokushesha ukuze iningi lemiphakathi livikeleke ekuphuca amalungelo ezemihlaba yawo nokuvikela ukuthengiswa kwalemihlaba ngendlela ephambene nenhloso yokubakhona komthetho ovikela amalungelo emiphakathi.

Ukukhombisa ukungayibhekeli imiphakathi lokho okwakhloswe ngokuba khona kwe IPILRA ukuthi kufanele kuvuselelwe ukusebenza kwawo lomthetho njalo ngaphambi kokuphela konyaka. Kufanele i-IPILRA yenziwe umthetho wangunaphakade kuze kube isikhathi lapho kushaywa omunye umthetho oyongena esikhundleni sayo eminyakeni ezayo.

Kuningi okunye okungenziwa ukuthi lomthetho usetshenziswe ngokugcwele ezindaweni zasemakhaya lapho bonke abafisa ukubonisana nemiphakathi uma

behlose ukuletha ezentuthuko nokunye okuningi. Lawa ngamandla anikezwe uNgqongqoshe weZemihlaba ukuba enze lezinguqoko. Okunye okubalulekile ukubakhona kwemigomo (regulations) ezoshicilelwa mayelana nokusebenza kwalomthetho.

NGABE YIZIPHI IZINQUMO ZASEZINKANTOLO EZIKHISHIWE NGAMALUNGE-LO AVIKELWA YILOMTHETHO WE IPILRA

Kuleminyaka edlulile, abezinkantolo sebekhiphe izinqumo ezibalulekile kakhulu ngalomthetho we IPILRA mayelana nemizamo yokwephuca imiphakathi imihlaba ngaphandle kwemvume kanye nokunikezwa isinxephezelo.

Lapha sizobheka ezinye zalezinqumo kulelikhasana lethu futhi okuyilezi ezilandelayo ngenzansi nezithinta abezimboni zokumbiwa phansi komhlaba nokuphinde kube abezimayini. Sizohlaziya ngemigomo yalezimboni ngokushiwo ilemithetho IPILRA kanye ne Mineral and Petroleum Resources Development Act (MPRDA)

Maledu nabanye v Itereleng Bakgatla Mineral Resources kanye nomunye (Maledu)

Okuphinde kwacaciswa yizinkantolo kulelicala ngenhla ngokwehlulela kuka Jaji Basson ukuthi abanikazi bamalungelo abathintekayo kufanele banikeze imvume yabo yamahhala, ngaphambi nangemuva kolwazi.:

- Ukukhululeka, kusho ukuthi imvume inikezwa mahhala futhi inganqatshwa;
- Ngaphambilini, kusho ukuthi imvume kumele itholwe ngaphambi kokuthi kuthathwe izinqumo mayelana nomhlaba noma ngaphambi kokuthi kuthathwe izinyathelo ezithinta umhlaba ohlobene nokusetshenziswa okuhlosiwe;
- Ukwaziswa kusho ukuthi lonke ulwazi oludingekayo ukuze wenze isinqumo unolwazi kufanele lunikezwe ngaphambi kokuba kucelwe imvume.

Kulelicala lase Maledu kukhonjisiwe ngokuhlukumezwa kwemiphakathi imithetho yesikhathi esidlule kuhlanganisa nezindlela abantu abamnyama ababecindezeleke ngakhona imithetho ngaphambilini ngezemihlaba yalemiphakathi. Indawo okwathatha iminyaka emini kuhlanganiselwa ezezimali, yathengwa ngonyaka ka 1919 imindeni eyishumi nantathu (13) besizwe sase Itereleng Bakgatla. Ngenxa yomthetho owawushayiwe ngalesosikhathi futhi nesibalo semindeni eyayithenge

umhlaba, lendawo yagcina seyibhalwa ngegama likahulumeni kunokuba kunikezelwe ubunikazi obusemthethweni kulemindeni noma amatayitela ngaphansi kobukhosi be Bakgatla-ba-Kgafela.

Ngemuva kweminyaka eyikhulu (100), indawo yadluliselwa kwimayini ngaphandle kwemvume yabathengi futhi ababengahambisani nokwephuca amalungelo abo omhlaba.

Isinqumo senkantolo sivumelene nomphakathi futhi yanquma nokuthi umthetho wezimayini i MPRDA awukwenzi ukuthi ucindezele amalungelo abawanikwa i-IPILRA nokuthi imayini ayitholanga imvume yabanikazi bomhlaba uma befaka isicelo sokuvunyelwa uhulumeni ukusebenzisa indawo yomphakathi.

Lesinqumo senkantolo ephakeme kunazononke i Constitutional Court sithole ukuthi lemithetho yomibili iyalingana awukho odlula omunye futhi uma isetshenziswa kufanele kubhekwe lokho okushiwo iyona yomibili ngokulinganayo futhi okufanayo futhi abanikazi bomhlaba kufanele bavume noma banikezwe isinxephezelo uma bezophucwa indawo yabo.

Yiziphi ezinye izinqinamba ezikhona uma kusetshenziwa lomthetho isigaba 54 somthetho I MPRDA?

Lomthetho i MPRDA yenzelwe izimayini ukuthi zixoxe kanjani nemiphakathi uma befisa ukusebenzisa izindawo zemiphakathi futhi lokhu kuhlanganisa nokuhlonipha indlela imiphakathi ephila ngayo kanye nokuthi kufanele bavumelane ngaphambi kokuthi ziqale ukusebenzisa leyondawo yemiphakathi. Lapho imiphakathi ingavumelani nemayini kufanele bazise umnyango wezokumbiwa phansi oseduze naleyo ndawo yomphakathi ngokwazisa umphathi wehovisi eliduzane naleyondawo (Regional Manager).

Lapho kuphikiswana ngesicelo sokusebenzisa imihlaba yemiphakathi, umphathi wehovisi, kufanele abhalele izinhlangothi zombili ukuzwa ukuthi udaba lungaxazululwa kanjani futhi assize ukuthola isixazululo sombango kanye nesinxephezelo esifanele. Uma u Regional Manager ehluleka ukuthola isisombululo salombango, udaba luyadlula luye enkantolo noma kwenziwe isincomo sokudliwa kwendawo okudluliselwa kuNgqongqoshe.

Sikhona yini isidingo somnyango i DMR sokuthola imvume yabanikazi zindawo ngamalungelo abo ngaphambi kokunika imvume yokumbiwa ngaphansi komhlaba?

BALENI NABANYE V MINISTER OF MINERAL RESOURCES KANYE NABANYE (BALENI)

Lelicala lase Baleni lavulwa umphakathi wase Xolobeni ngemuva kukaNgqongqoshe Wezokumbiwa Phansi (Minister of Mineral Resources) ethathe isinqumo sokunikeza imvume ngaphambi kokuxoxisana nomphakathi ukuthi bayavuma yini nendawo yabo njengoba kudingekile ngaphansi komthetho i-IPILRA.

Umnyango i DMR kulelicala wawungasiboni isidingo sokuxoxisana nalomphakathi owawuzophucwa amalungelo ezemihlaba nokuthi lamalungelo avikelekile ngaphansi kwalomthetho i-IPILRA. Lesinyathelo sichithiwe enkantolo ephakeme kunazonke i Constitutional Court sithole ukuthi lemithetho yomibili iyalingana awukho odlula omunye futhi uma isetshenziswa kufanele kubhekwe lokho okushiwo iyona yomibili ngokulinganayo futhi okufanayo futhi abanikazi bomhlaba kufanele bavume noma banikezwe isinxephezelo uma bezophucwa indawo yabo. Lokhu kufakazelwe isinqumo sangaphambili esibhekwe amajaji ecaleni lika Bhe v Khayelitsha Magistrate and Alexcor v Richtersveld Community.

Ngabe amalungelo ngaphansi komthetho i IPILRA avikeleke kanjani kumhlaba owenganyelwe abe Ingonyama Trust e KwaZulu-Natal?

Council for the Advancement of the South African Constitution, Rural Women's Movement kanye nabanye v Ingonyama Trust kanye nabanye

Loludaba lugcine seluyiswa ezinkantolo ngokubambisana phakathi kwezinhlangano ezisiza imiphakathi ezifana ne [Council for the Advancement of the South African Constitution (CASAC), the Rural Women's Movement (RWM)], kanye nabantu abahlukumezwe i Trust ngokuthi basayina lezivumelwano bengazi.

Isinqumo siphumile lapho u Judge Madondo nozakwabo ababili bavumelene ngesicelo semiphakathi. Lesinqumo sibe yingqophamlendo ngokunikeza abantu basezindaweni zasemakhaya amalungelo abo asemthethweni kanye nokuzithathela umthetho wokucisha lamalungelo obesewenziwa abe Ingonyama Trust. Inkantolo iphinde yakhumbuzisa u Hulumeni ngezinto okufanele zenziwe umnyango ka Ngqongqoshe wezemihlaba.

Zazise kabanzi ngesivumelwano sokuqasha indawo yokuhlala seNgonyama Trust – ngabe siyini lesivumelwano nokuthi sisho ukuthini?

Kusukela ngeminyaka 2006/7, uma uhlala emhlabeni oyindawo yomphakathi ongaphansi kwe Trust, kungahle kube usunikiwe noma usutsheliwe ngesivumelwano sokuqasha indawo yokuhlala seNgonyama Trust. Kubalwa abantu abanamalungelo ngokwama PTOs, noma i-IPILRA kanye namasiko endabuko kulabo asebesayiniswe lezivumelwano ne Trust futhi bakhokhiswe intela (rent)

ukuze baqhubeke ukuhlala nokusebenzisa imihlaba yabo yasemakhaya. Abe Ingonyama Trust bathi lezivumelwano zihlose ukuvikela amalungelo emiphakathi ngezemihlaba ngaphansi kwezindawo eziphethwe yibona.

Amanga aluhlaza lawa. Lezivumelwano ziphuca abantu amalungelo abo obunikazi bomhlaba wabo njengoba sesishilo ukuthi avikelekile ngokwamasiko endabuko nemithetho i, IPILRA nama PTO. Iningi labantu abahlala emhlabeni ongaphansi kwe-Ingonyama Trust banamalungelo anamandla alowo mhlaba abahlala kuwo. Lezivumelwano zichaza ukuthi uma bezivuma kusho ukuthi umhlaba sekungowe Trust futhi labobantu abavumile sebeqashile emihlabeni yabo okukade kwaba ngeyabo.

Ezinye izinkinga ezihlupha abanamalungelo ngama PTO nokuvikelwa umthetho we IPILRA, le-Trust, ngale kokuba namandla okuphatha umhlaba, umthetho uthi kubandakanya ukuvikelwa kwamalungelo omhlaba wabantu kanye nemiphakathi ngaphansi kwale-Trust futhi kufanele kuhlonishwe nayiyo le Trust lokuvikelwa kwamalungelo kodwa sekulethe ingcindezi kubantu kanje:

- Lezivumelwano ngezeminyaka engamashumi amane [40] futhi kufanele zivuselele ngemuva kwalesikhathi. I Trust uma ithanda inganqaba ukusivuselela lesivumelwano somhlaba wakho banganikezi nesizathu salokhu bese beyakuxosha emhlabeni wakho. Ngalandlela lesimo sixova imiphakathi kulabobantu abanama PTO kanye nabanamalungelo endabuko abawumnsi wokuzimilela okungangatshazwa amalungelo abo okuhlala kulezindawo.
- Abantu abavumile ukusayina lezivumelwano kufanele bakhokhe intela (rent) kwi Trust futhi iyakhuphuka iminyaka yonke ngama phesenti ayishumi (10%). Uma wehluleka ukukhokha usuke sewephule isivumelwano nokungaholela ekutheni abe Trust bakuxoshe endaweni yakho. Lesimo sonke siphambene nomthetho namalungelo abantu abanamalungelo ngokwama PTO nokuzalelwa kulendawo ngokwamasiko endabuko.
- Ngemuva bengavumanga ukuvuselela isivumelwano sakho sokuqasha abe Trust, ngeke usithole isinxephezelo sezindlu zakho nalokho owakwenza kwentuthuko egcekeni lakho.
- Isivumelwano asiguquki sikunike okungaphezu kwalokho okubhalwe kusona ukuthi ube umnikazi wendawo yakho.
- Uma sewushonile akekho womndeni wakho ongahlomula.

Loludaba lugcine seluyiswa ezinkantolo ngokubambisana phakathi kwezinhlangano ezisiza imiphakathi ezifana ne [Council for the Advancement of the South African Constitution (CASAC), the Rural Women's Movement (RWM)], kanye nabantu abahlukumezwe i-Trust ngokuthi basayina lezivumelwano bengazi. Inkantolo yacelwa ukuthi inqume ngalezinto ezilandelayo:

1. Ukuthi i Trust iphule umthetho ngokuguqula indlela abantu ekade behlala futhi bephila ngayo emakhaya ngokubavumisa ukusayina izivumelwano zokuqasha nokuthi azikho emthethweni;
2. Ukubeka uNgqongqoshe icala ngokuvumela ukuthi kuhlukumezwe amalungelo imiphakathi nabantu abanobufakazi bezitifiketi zama PTOs, abagcine sebesayina izivumelwano zokuqasha njengobufakazi bobunikazi bezindawo zabo.
3. Ukubeka u Ngqongqoshe icala ngokwephula u Mthethosisekelo nesigaba 25(6) lapho kwakufanele avikele imiphakathi ehlala ngaphansi kwezindawo eziphethwe Ingonyama Trust.

EZINYE IZINTO EZIBALULEKILE NGAMALUNGELO EZISHIWO INKANTOLO NGAMA PTO:

Njengoba kushiwo ngenhla, i-IPILRA ivikela abantu kanye nomthetho we ULTRA, kanye nabantu abanamalungelo ngezincwadi zama PTO. U Jaji Madondo wanquma ngokuvumelana nozakwabo abanye ababili ukuthi lezivumelwano zabantu abanamalungelo nge PTO abavikelekile ngokusayina ne Trust. Inkantolo yathola ukuthi ngalesenzo, i Trust iphuca abantu amalungelo emihlaba yabo.

uJaji Madondo wanquma ngokuvumelana nozakwabo abanye ababili ukuthi lezivumelwano zabantu abanamalungelo nge PTO abavikelekile ngokusayina ne Trust. Inkantolo yathola ukuthi ngalesenzo, i-Trust iphuca abantu amalungelo emihlaba yabo.

Zonke izinto abantu abakhale ngazo futhi ivumile inkantolo ukuthi abe Ingonyama Trust baphule imithetho njengoba sesichazile ngenhla nokuthi kufanele yona no Ngqongqoshe benze konke okusemandleni abo ukuguqula lesimo ukulungisela abantu izindaba ngemihlaba yabo nokuthi kuphindwe kushicilelwe kabusho izitifiketi zama PTOs ukuze abantu uma bedlula emhlabeni kuhlomule izizukulwane zabo njengesifiso salowo muntu onendawo ngaphansi komhlaba owenganyelwa ngalendlela.

Kuphindwe kwachithwa inkantolo ukuthi kukhona ubudlelwano balezivumelwano namanye amalungelo asemthethweni ngokwendabuko. Inkantolo ihambisana

nokuthi yonke lemithetho ebalwe ngaphezulu iyahambisana nezinhliso zika Hulumeni zokuvikela amalungelo omhlaba abantu abahlala ezindaweni zasemakhaya futhi yavumelana nemiphakathi ukuthi kubenjalo.

Inkantolo izichithile lezivumelwano zokuqasha ngoba zibulala amalungelo abantu abanama PTO ngokuthi azikho emthethweni. I Trust ibuye yatshelwa ukuthi ayikumise maduzane ukuqhubeka nokusayinisa imiphakathi lezivumelwano nokuthi libalahlile icala futhi bangaphinde bakhuthaze abantu ukwenza lezivumelwano zokuqasha ngokushesha.

EZINYE IZINTO EZIBALULEKILE NGAMALUNGELO ENDABUKO EZISHIWO ISINQUMO SENKANTOLO:

Inkantolo uma yenza isinqumo, yenze umehluko ngamalungelo endabuko, umehluko ngemihlaba eyahlukene okubalwa amakhaya, amasimu okulima lapho umuntu engathola ilungelo eyedwa kanye nomhlaba wawowonke umuntu njengamadlelo emfuyo.

Ikucacise kakhlophe inkantolo ukuthi abantu abanamalungelo emizi nokulima yibona abanikazi balezozindawo abazisebenzisayo. Lokhu akusoze kwashintshwa noma inini futhi lamalungelo andadluliselwa kuzizukulwane zalabo bantu.

Lezindawo nomhlaba kuvikelwe ngoMthethosisekelo wezwe ne IPILRA.

Inkantolo ibuye yachaza namanye amalungelo atholakala ngokwesiko lendabuko futhi okuhlanganisa okulandelayo:

- Amandla okuba nento yakho: Ukuba nento yakho kunikeza igunya lokuthi ingathathwa yinoma kanjani kodwa isetshenziswe uwenamnikazi wayo kuphela.
- Ilungelo lokusebenzisa nokujabulela into ethile: Lokhu kuhlanganisa nokuthokozela izithelo zento okungekhayo ngaphezu kokuthi futhi leyonto uyayisebenzisa njengeyakho.
- Ilungelo lokuhlanganisa impahla: Ilungelo elichazwa lapha lihlanganisa (ukudayisa, ifa, ukubolekisa nokuvuma) ukusetshenziswa kwento yakho nayibantu abaqhamuka ngaphandle kwalapho nihlala khona.

OKUSHIWO ISINQUMO SENKANTOLO NGE IPILRA NEMIGOMO YE TRUST

Inkantolo ivumile ukuthi lomthetho we IPILRA uyasebenza nasemhlabeni ophethwe i Trust. Futhi iphinde yasho inkantolo ukuthi abe Trust baphula umthetho ngezinto abazenzayo ezibikwe abantu abahlala kulezindawo abasayiniswa izivumelwano zokuqasha kanti banobufakazi bokuthi banganikazi bomhlaba ngezitifiketi zama PTO. Ayivumelekile i Trust ukuthi isayinise abantu lezivumelwano bengachazanga amalungelo emiphakathi njengoba kuchaziwe ngomthetho we- IPILRA. Lapho imiphakathi ivumile ukwephucwa amalungelo ayo emihlaba, lokhu kufanele bakwenze ngaphandle kokusatshiswa, kugcwale, kucace bha ukuthi futhi bavumile.

Imiphakathi efake isikhalo enkantolo ngokusizwa i CASAC ne RWM bachazile zonke izinkinga abahlangabezane nazo mhla kuthiwa abasayine lezivumelwano ne Trust futhi bengahambisani nalombono. Abantu abavumelananga ngokugcwele ne Trust ukwenza lezivumelwano zokuthelela imihlaba yabo ngenxa yokuthi babephucwa amalungelo abo ase mthethweni bengafuni.

Kukhona imiphakathi eyatshelwa abaholi bendabuko bezindawo lapho behlala khona ngomthetho omusho owawudinga basayine lezivumelwano zokuqasha. Awukho umthetho onjalo futhi babekhuluma iphutha.

Abanye basatshiswa ngokuthi bazodingiswa uma bengavumi ukusayina. Abantu abaningi kwathiwa abafike nomazisi enkantolo yomkhandlu ukuze babhalise ukuthi bayizakhamuzi zendawo kodwa bangachazelwa ukuthi basayinela ukuqasha indawo lapho behlala khona. Imininingwane yabantu yathathwa izikhulu ezazivela emahovisi e Trust lapho abantu kwathiwa abafike nomazisi babo neminye imininingwane ngemihlaba yabo. Bagcwalisa izincwadi uma befika enkantolo yesizwe kodwa bangachazelwa ukuthi kuqhubekani. Ekugcineni batshelwa ukuthi sebevumile ukuthi bazoqasha izindawo zabo ngalokusayina amaphepha abawagcwalisa. Akuchazanga lutho ngaphambi kokuthi abantu basayinise amaphepha ayegcwaliswa abasebenzi abavela kwi Trust.

Ekugcineni zonke izinto ezenzekile inkantolo inqume ukuthi ziphambene no Mthethosisekelo nemithetho yonke esichazwe ngaphezulu.

OKUSHIWO INKANTOLO NGOKUSEBENZA NEMIBANDELA NGE TRUST

Isinqumo senkantolo sichaze ngemithetho yokusungulwa kwale Trust, namandla nezinto okufanele ngabe iyazenza ngokomthetho. Lemithetho kubalwa u 26 Mthethosisekelo [Constitution], we Ingonyama Trust, IPILRA, ULTRA, nowamasiko akwa Zulu. Ngokusho kwenkantolo, i-Trust iyiphulile yonke lemithetho ngokuguqula amalungelo emiphakathi efake icala nokwenza izivumelwano zokuqasha. Inkantolo iphinde yathola ukuthi babengenalo ilungelo lokushintsha ukuhlala kwabantu kulomhlaba ngendlela abenze ngayo yokubaphuca izitifiketi zama PTO

bawashintsha ukuthi kube izivumelwano zokuqasha, nemali esebeyikhokhile abantu futhi inkantolo inqume ukuthi kufanele ibuyiswe kubanikazi bayo bese belungiselwa izincwadi zobufakazi bokuthi imihlaba ngeyabo.

ISINQUMO SENKANTOLO NGEZIVUMELWANO ZOKUQASHA

1. Inkantolo ithole ukuthi iNgonyama ne Bhodi layo baphule yonke imithetho ngokusayinisa abantu izivumelwano zokuqasha imihlaba yabo kanye nokumisa ukushicilelwa kwezitifiketi zama PTO kubantu abahlala ezindaweni zasemakhaya. Isinqumo senkantolo sithole ukuthi lesimo siholele ekutheni i Trust isebenzise lokungakhishwa kwezitifiketi zama PTO ukuthi isayinise abantu izivumelwano zokuqasha.
2. Zonke izivumelwano zokuqasha imihlaba ezisayinwe imiphakathi ne Trust emakhaya, nezifaka indawo yokulima kanye namasimu zimisiwe futhi azikho emthethweni.
3. i-Trust mayibuyise yonke imali eseyakhokhwa abantu abasayina izivumelwano zokuqasha njengoba kuchaziwe ngenhla.
4. uNgqongqoshe utholwe enecala lokungavikeli imiphakathi ukuthi bangahlukumezwa ngoko Mthethosisekelo.
5. uNgqongqoshe kufanele abikele inkantolo ngezinto umnyango wakhe abazozenza ukulungisa lesimo nokuthi kuphinde kushicilelwe izitifiketi kubantu zama PTO ngaphambi kokuphasiswa komunye umthetho ozosiza imiphakathi ebhekene nalezinkinga. Lombiko kufanele awethule njalo ngemuva kwezinyanga ezintathu.

Izivumelwano zabanye abantu

THIRD PARTY LEASES

Kukhona izivumelwano ezenziwe i Trust nabawhebi kanye nabafuna ukutshala izimali abavela ngaphandle kwalezindawo esikhuluma ngazo. Okujwayelekile izimboni kanye nezimayini abafuna umhlaba wokumba okungaphansi komhlaba noma bakhe inxanxathela yezitolo kanye nama hotela emihlabeni engaphansi kwe Trust.

Loluhlobo lwesivumelwano akukhulunywanga ngalo kulelicala. Asikho isivumelwano esifana nalezi ezibaliwe esingena kulodaba lwesinqumo senkantolo esichazwa lapha. Okubalulekile ukuthi uma i-Trust ifisa ukunikeza umhlaba kulesimo esichazwa lapha, into yokuqala ukuthi kufanele kucace ngamalungelo

abantu kuleyondawo ezonikezwa umuntu wangaphandle ofuna ukuyisebenzisa njengoba sesichazile ngoko Mthethosisekelo, umthetho we Ingonyama Trust Act, IPILRA, ULTRA, kanye nemithetho ngokwesiko lesiZulu.

YINI OKUFANELE UYENZE UMA UPHUCWA AMALUNGELO OWANIKWA NGE IPILRA?

Lapho kuphikiswana ngesicelo sokusebenzisa imihlaba yemiphakathi, umphakathi unelungelo lokumazisa lowo aphikisana naye futhi amukhombise lomthetho we IPILRA:

- **Mazise ukuthi ngeke uphucwe amalungelo omhlaba ungavumelananga nabo** ngalamalungelo onawo ngokwendabuko noma engabhaliwe phansi. Lapho uhulumeni nabantu abaqhamuka ngaphandle kwendayo yakho befuna ukuqhubeka ngenkani, lesosenzo asisekho emthethweni sidinga ukudluliselwa ezinkantolo ukuze simiswe.
- Nalapho kunelungu lomphakathi wendabuko elizophucwa amalungelo omhlaba, angenza okulandelayo:
 - **Acele umhlangano nazozonke izikhamuzi zendawo ukuze nazo ziphawule ukuthi ziyahambisana yini nokuthi angaphucwa amalungelo akhe** omhlaba.
 - Kufanele kulandelwe **inqubo yokuthathwa kwezinqumo njongoba kuchazwa ngokomthetho i-IPILRA**. Lenqubo ihlanganisa nesikhathi esanele sokubizwa kwalomhlangano wokuthatha isinqumo sokwephucwa kwamalungelo nesizathu sokufuna ukusebenzisa leyondawo okukhulunywa ngayo; wonke unelungelo lokukhuluma kulomhlangano kanye nesinxephezelo salowo muntu ozokwephucwa amalungelo nazozonke ezinye izinto njengoba kuchaziwe kulencwadi. Uma singekho isivumelwano, udaba seluyodlula luye ezinkantolo ukuze kube nobulungiswa.



IZINHLANGANO ONGAXHUMANA NAZO UMA UFUNA UKUSIZWA:

Uma ufisa ukwazi kwabanzi ngokusebenza kwalezinhlango ezilandelayo, sicela uvakashele izindawo zokuxhumana zazo noma ubashayele ucingo:

Mining Affected Communities United in Action (MACUA)

Website:
www.macua.org.za
Telephone:
082-707-9860

Legal Resources Centre

Website:
www.lrc.org.za
Telephone:
011-838-6601
Fax:
011-838-4876

Ndifuna Ukwazi

Facebook:
www.facebook.com/NdifunaUkwazi
Telephone:
021-012-5094

Phuhlisani

Website:
www.phuhlisani.com
Email:
rick@phuhlisani.co.za
Telephone:
021-685-1118

Rural Women's Movement

Facebook:
www.facebook.com/ruralwomensmovement
Email:
ruralwomensmovement@gmail.com

Tshintsa Amakhaya

Facebook:
www.facebook.com/tamakhaya
Telephone:
021-447-5096

Abahlali baseMjondolo

Website:
www.abahlali.org
Email:
abahlalibasemjondolo@telkomsa.net
Telephone:
031-304-6420
Cellphone:
083-547-0474
Fax:
031-304-6436

Alliance for Rural Democracy (ARD)

Facebook:
www.facebook.com/RuralDemocracy
Telephone:
010-021-0572

Alternative Information and Development Centre (AIDC)

Website:
www.aidc.org.za
Telephone:
021-447-5770

Bench Marks Foundation

Website:
www.bench-marks.org.za
Telephone:
011-832-1743/2

Centre for Applied Legal Studies (CALs)

Website:
www.wits.ac.za/cals
Telephone:
011-717-8600





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