IPHULO LOKUMISA UMTHETHO WEBANTUSTAN

Ukusa i-Traditional and Khoi-San Leadership Act 3 of 2019 enkundleni

I-TKLA IBALULEKILE yenza ibaluleke ngokusemthethweni imiphakathi yeKhoi neSan neenkokheli okokuqala ngqa eMantsi Afrika.

Njengomanduleli wayo, i-Framework Act, i-TKLA iqaphele amaziko emveli, uluntu kunye nesiko, eziqhubeka nokuba yinxalenye ebalulekileyo eyaziwayo yezigidi zabemi zoMzantsi Afrika. Lo Mthetho udibanisa wonke umthetho olawula iinkokeli zomthonyama. Sekunjalo uyingozi enkulu kwintando yesininzi kubantu abahlala ezilalini nakumalungelo obumnini mhlaba. Ukubhalwa kwalo Mthetho nomanduleli wawo wanikela ngethuba lenkululeko kumaziko obunkokheli bemveli kunye nomthetho wesintu, nokuhlanjululwa kwawo kubugqwetha kobukoloniyali. Ngelishwa, elo thuba lachithwa.

Iziqulatho

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I-STOP THE BANTUSTAN BILLS liphulo eliqaliswe yi-Aliance for Rural Democracy (ARD) ngo 2018.

Phakathi kwezinye izinto, iphulo lazise abemi boMzantsi Afrika ngeengozi ze-Traditional and Khoi-San Leadership Act 3 of 2019 (TKLA). Amanye amagqala omzabalazo aye alixhasa eli phulo. NgoJuni 2019, i-ARD ikhokhele abantu abangaphaya kwe-1200, kuquka nabemi basemaphandleni, ukuqhankqalazela Kwizakhiwo Zemanyano, becela uMongameli uRamaphosa ukuba angenzi umthetho we-TKLA. Zange sisiwe so isicelo nguMongameli! NgoApreli 2021, i-TKLA ibe semthethweni.

Namhlanje..

◊ Iphulo lixhasa imiphakathi nemibutho ecela umngeni i-TKLA enkundleni.

◊ Bathi i-TKLA ayiyifikeleli imilinganiselo ebekwe Ngumgaqo-siseko kwaye ibeka iingozi ezininzi kubemi basemaphandleni ukwakha i-Bantustans, nemiphakathi yema-Khoi-San.

◊ Nangona kunjalo, eli phulo **ALIPHIKISANI** nokwamkelwa kwexesha elide ngokomthetho kwelifa lemveli kamaKhoi namaSan, imiphakathi neenkokheli.

◊ Iphulo liphinde **LINGACHASANI** nomthetho wesintu kunye nobunkokheli bemveli. Lifuna ukuqinisekisa ukuba indlela yobunkokheli kunye nomthetho wesintu owamkelwe ngumthetho unoxanduva lokuphendula ebantwini, awungqubani nasiko lokuphila kwaye ususa iingcambu zobukoloniyali.

Imbali nemvelaphi ye-TKLA

2015

i-Traditional and Khoi-San Leadership Bill yasiwa ePalamente.

2016-2018

Uthatho nxaxheba lukawonke-wonke olwaqhutywa yiPalamente kunye namaBhunga amaPhondo ukuze kufunyanwe izimvo zoluntu ngoMthetho oyilwayo.

NGONOVEMBA 2019

UMongameli uRamaphosa watyikitya i-Bill yoMthetho - *i-Traditional and Khoi-San Leadership Act 3 of 2019 (i-TKLA).* Eli linyathelo lokugqibela lokwenza umthetho omtsha.

NGODISEMBA 2020

UMongameli uRamaphosa wapapasha umhla wokuqalisa kwe-TKLA.

1 APRELI 2021

I-TKLA yaqalisa ukusebenza yaza yathathela indawo imithetho yobukhokheli bemveli efana ne-Traditionala Leadership and Governance Framework Act of 2003 (i-Framework Act).

Yintoni ingxaki ye-TKLA noluntu lweKhoi-San?

1. Abemi basemaphandleni basenokujamelana nokoxuthwa amalungelo abo omhlaba

Icandelo 24 lithi Amabhunga Emveli asenokungenela izivumelwao, ngaphandle kokucela imvume ebantwini omhlaba wabo okanye amanye amalungelo anokuchaphazeleka (jonga iphepha 30).

◊ Abantu abanamalungelo omhlaba wesintu kunye namalungelo omhlaba angamiselwanga ngokusesikweni abakhuselekanga, akuboniswana nabo okanye babuyekezwe, nto leyo ejongela phantsi iimfuno ze-Interim Protection of Informal Land Rights Act of 1996 (i-IPILRA).

◊ I-IPILRA ithi xa amalungelo abantu omhlaba oxuthwe ngokusemthethweni, kufuneka babuyekezwe.

#StopTheBills

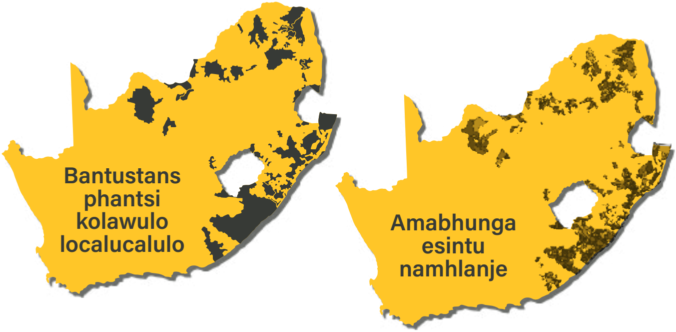
2. Abemi basemaphandleni abakwazi kuwaphendulisa amagunya emveli ngokuba bayisebenzisa njani imali yoluntu

I-TKLA ayinikeli ngazixhobo ezisebenzayo kubemi basemaphandleni ukuze bafumane ulwazi lokuba amabhunga emveli ayisebenzisa njani imali yabo.

◊ Yonke imali yoluntu lwemveli nokuba ivela kowuphi umthombo iza kuya kwiiakhawuntu zebhenki yolawulo lukarhulumente ((Jonga iCandelo 23 lomthetho kwiphepha 26).). Le nkqubo ibisetyenziswa eMntla-Ntshona kangangeminyaka ekhokele kulahleko olukhulu lwengxowa-mali yoluntu.

- » Uninzi loluntu lwemveli luphulukene nesixa esikhulu semali ngenxa yezenzo zamabhunga emveli, iinkokheli zemveli noorhulumente bamaphondo.
- » Emntla Ntshona iBakgatla ba kgafela iphulukene phantse ne-R5 billion (jonga ingxelo yekhomishini kaBaloyi ku-http://www.saflii.org/images/baloyi.pdf), ngoxa iBapo ba Mogale iphulukene ne-R800 million (jonga ingxelo Yomkhuseli Woluntu ku-https://www.customcontested.co.za/wp-content/uploads/2017/07/Bapo-Ba-Mogale-D-Account-Investigation-Report-002.pdf).

◊ Nangona indlela yokugcina imali "nge-D-account" ibonakale iyintlekele kumabhunga esintu akwiphondo laseMntla Ntshona kodwa ngoku iza kusetyenziswa ngawo onke amaphondo.



3. Igcina iziseko zobukoloniyali/zocalucalulo kwaye iphinde ixhase ijografi yeBantustan

Ezi ndawo zasekwa ngokususwa ngenkani kwabantu ibe abanye abantu banyanzelwa bakhethe isizwe okanye bafakwe phantsi kolawulwo lwesizwe abangafuni ukuba siso.

◊ Izizwe zithiywa ngokutsha zibe yimimandla yesintu.

◊ Amagunya ezizwe athiywa ngokutsha ngamabhunga emveli.

◊ Imida yamabhunga emveli yakhe ngokutsha iBantustan yangaphambili (jonga iimaphu ezingasentla).

◊ Abantu abahlala ezilalini baza kuqhubeka bevaleleke kwezi ndawo zeBantustan eziqhubekekayo phantsi kwe-TKLA kunye nokulawula ngegqudu kwamagunya esintu nawayeyilwe ngoorhulumente bamakoloniyali nowocalucalulo.

◊ Ubukhulu becala eMzantsi Afrika, i-TKLA iza kusebenza kuphela kwezi ndawo.

4. Ichasene nentando yeninzi nokuxhasa iingcinga zobukoloniyali zomthetho wesintu

I-TKLA iyaphambuka kwindlela inkundla zoMgaqo-siseko ewuqonda ngayo umthetho wesintu 'njengomthetho ophilayo' otshintshayo uze ukhule ngokuhamba kwexesha kwaye uchazwa ngabantu abaphila ngawo.

◊ I-TLA isebenzisa indlela yobukoloniyali neyomthetho wocalucalulo kuba ibeka iinkokheli zomthonyama ngentla koluntu.

◊ Izinto ezimbalwa zedemokhrasi ebezikwi-Framework Act ziyasuswa.

- » Konke ukuthathwa kwezigqibo kwenziwa ngamabhunga emveli, izindlu zasebukhosini norhulumente ngaphandle kwemfuneko yokufuna imvume yabantu abachaphazelekileyo kuloo ndawo.
- » Ithathele indawo iKhowudi Yokuziphatha yamabhunga emveli ephantse ifane nomgaqo Wokuziphatha woMthetho weeNkqubo zikaMasipala osebenza kumagosa anyuliweyo, ngokususa zonke izikhombisi "*zomphakathi*" kunye "*nedemokhrasi*".
- » Ithatha indawo yoxanduva lweenkokheli emveli kunye nabacebisi ukuze benze "*ngokomdla woluntu lwemveli*" ngokoxanduva "*lokwenza ngokomdla..... webhunga*".

- Umgaqo Wokuziphatha omtsha wongezelela amasolotya obumfihlo anokusetyenziswa ngamabhunga emveli ukuze izinto ekuxoxwa ngazo kunye nezigqibo azithathayo mayela nezinto zoluntu zibe yimfihlo.
- I-TKLA ayisafuni amabhunga emvelo ukuba athethe ngeengxelo zayo, iimeko zezimali nezipho neminikelo kuluntu lwayo, kodwa ngoku kufuneka kuthunyelwe ingxelo kwiNkulumbuso.
- Ibangela okanye inciphise uthatho-nxaxheba lomphakathi wemveli kwimveli karhulumente.
- Inciphisa iindlela zokwenza izinto ngokubhencekileyo noxanduva lobunkokheli bemveli; kwaye
- Ifuna kusetyenziswe iibhanki ezilawulwa ngurhulumente kuluntu lwemveli - inkqubo ebonakaliswe ivulela urhwaphilizo nobuqhetseba.

5. Iyakuphepha ukusilela kukarhulumente ukutshintsha amaziko emveli

Xa Umgaqo-siseko uba ngumthetho eMzantsi Afrika, urhulumente waqaphela imfuneko yongxamiseko lwamaziko obunkokheli bemvelo noxabiso lwentando yeninzi - inkqubo ebizwa 'ngotshintsho.' Oku kungenxa yokuba uninzi lwesintu lulahlekelwe yintembelo kwiinkokheli zemveli emva kokuba ucalucalulo noorhulumente bekoloniyali bezisebenzise njengezixhobo zengcinezelo kwixesha eligqithileyo.

- ◊ I-Framework Act ibonelele ngotshintsho lamagunya esizwe kumabhunga emveli ngokhetho - icela i-40% yamalungu azokhethwa luluntu nokuba i-1/3 ibe ngamabhinqa.
- ◊ IKomishoni yeeMbambano yoKhokelo lweMveli namaBango ebekelwe ukuphanda usasazeko lweembambano namabango malunga nokuba ngubani ekufanele abe sesikhundleni sokhokelo lwemveli.
- ◊ Zombini iindlela zisilele - kwamanye amaphondo unyulo beluqhutywa ngendlela engafanelekanga emva kokunqunyulwa komhla, ngoxa eLimpopo kungazange kuqhutywe lunyulo.
- ◊ Uninzi lofumaniseko lweKomishoni lubekelwe ucelo-mngeni enkundleni.
- ◊ I-TKLA ayakhi macebo zindlela ezisebenzayo ukuze ijamelane noxanduva lwamagunya esizwe angatshintshanga. Kunoko ibeka inkqubo yotshintsho olusileleyo ukuba iqhubeke isebenza.
- ◊ IKomishoni ivaliwe ngaphantsi kwe-TKLA, ngoxa iimbambano zisaqhubeka.

6. Kudala isigaba sesine sikarhulumente

Umgaqo-siseko ubonelela kuphela ukuba ibe ngamagunya onlyuliweto ukuba abe negunya lokuphatha. Oko kubalulekile ukuqinisekisa ukuba abemi boMzantsi Afrika banakho ukubabamba abo basemagunyeni ukuba baphendule ngonyulo.

◊ Sekunjalo, iCandelo 25 le-TKLA (jonga iphepha 33) liyawavumela amasebe karhulumento ukuba abele imisebenzi aqhele ukuyenza kwiinkokheli zemveli kunye namabhunga ngohlobo 'lweendima' ezingacacanga.

◊ Isibonelelo esifanayo kuMthetho weNkqubo-sikhokelo sikhokelele ekubeni oogunyaziwe bemveli bathathe uluhlu olubanzi lwamagunya afanele ukuba ngoomasipala okanye amanye amaqela oluntu.

- » Ukukhutshwa kweeleta zobungqina, ezifunekayo ukuze abantu bafikelele kwiinkonzo ezibalulekileyo ezinje ngeZazisi kunye nokuvula iiakhawunti zebhanki.
- » UCwangciso lweNdawo kunye noMthetho woLawulo lokuSetyenziswa koMhlaba we-16 wezigqibo zokusetyenziswa komhlaba ngo-2013.
- » Ulwabiwo lomhlaba.

◊ Iinkokheli zemveli azonyulwa kwaye ke ngoko akufuneki babambe amagunya orhulumente. Ukuba bawasebenzisa kakubi la magunya, abanakuphenduliswa!

7. Baphatha abahlali bamaKhoi-San ngokwahlukileyo

Ngelixa iinkokheli zamaKhoi-San zinegunya kubantu abathile kuphela, ngaphandle konxibelelwano nemimandla yomhlaba, iinkokheli zemveli zinegunya kwindawo ethile nakubo bonke abantu abahlala kuloo ndawo.

IPalamente ivala iindlebe kumazwi abantu basezilalini

Umanyano lwedemokhrasi yasemaphandleni kunye nabemi basemaphandleni bazimase iindibano zovakaliso-zimvo ezibizwe yiPalamente kwaye bayala umThetho oYilwayo wobuNkokheli beMveli kunye namaKhoi-San.

Urhulumente ebejongele phantsi abemi basemaphandleni.

◊ Iingxaki kwiinkqubo zokuthatha inxaxheba koluntu zibandakanye:

  » ukwaziswa emva kwexesha kwintlanganiso;
  » utshintsho kwindawo ngomzuzu wokugqibela;
  » iindawo zokumamela kude noluntu lwasemaphandleni;
  » kwiindawo ekuqhutywa kuzo iintlanganniso ikopi yoMthetho oqulunwayo ibingekho; kwaye
  » uMthetho oqulunwayo ubufumaneka ngesiNgesi kuphela.

◊ Kwiindawo ezininzi lo Mthetho uYilwayo wawubhengezwa njengochaphazela uluntu lwamaKhoi-San kuphela.

◊ Ilizwi leenkokheli zemveli lalilawula ezinye iintlanganiso.

Ukuya enkundleni

I-ARD ibhenela kwiNkundla yoMgaqo-siseko egameni labemi basemaphandleni abanamalungelo omgaqo-siseko namasiko abo asengozini phantsi kwe-TKLA.

Bathetha ukuba i-TKLA ijongela phantsi ezona zinto zisisiseko uMgaqo-siseko wethu usekwe kuzo, ezifumaneka nakumthetho wesiNtu. Ezi zithethe yintando yesininzi, ukuphendula kunye nenkululeko. I-TKLA ikwasongela amalungelo oluntu kwipropathi, ukulingana, inkululeko yokuzibandakanya, ubulungisa bezolawulo kunye nelungelo lokuthatha inxaxheba koluntu nakwezopolitiko.

I-ARD kunye nabemi basemaphandleni bachasene neenxalenye ze-TKLA ezisongela ubomi babo kunye namalungelo omhlaba. Baxhalabile yi-TKLA kuba babonile ubunzima kunye neengxaki ezizisiwe yi-Framework Act.

◊ Ukususela oko umthetho-sikhokelo ubusebenza:

» ELimpopo, abasemagunyeni bakwazile ukufumana izithintelo zenkundla ukunqanda amalungu oluntu ekubambeni iintlanganiso. Oku kusemva kokuba iNkundla yoMgaqo-siseko ivakalise oku kungekho semthethweni kwi-*Pilane vs Pilane* (2013).

» Amagunya emveli eLimpopo kunye neendawo zaKwaZulu-Natala bebehlawulisa iirhafu zabemi basemaphandleni. Xa abemi basemaphandleni besilela ukuhlawula ezi rhafu, bebengabunikwa ubungqina bokuhlala, ekufuneka bevule iiakhawunti zebhanki kwaye bafumane iZazisi. Abantu abanikwanga iindawo zokungcwaba kunye nezinye iinkonzo ngokusilela ukuhlawula irhafu.

» Uluntu lwaseLimpopo luye lwangcungcuthekiswa yinkokheli yemveli ephezulu ethi inyanzelise igunya layo kubo. Xa abahlali bengayithobeli imiyalelo yenkokheli yemveli, usebenzisa umkhosi wakhe wabucala obizwa ngokuba "yi-Green Berets". Uchithe izakhiwo ezakhiwe ngabantu kuba bengenayo imvume yakhe. IiGreen Berets zikwasetyenziselwa ukuhlasela, ukuxhwila, nokugcina kwizakhiwo zebhunga lemveli, nawaphina amalungu oluntu aphikisana nezinyanzelo zale nkokheli yemveli.

◊ Ityala lenkundla liza kuchaza iingxaki ezithe zenzeka ngexa iPalamente kunye nezindlu zowiso-mthetho zamaphondo zisebenza ne-TKLA kwaye ibonise ukuba kutheni le nkqubo ingahambelani nomgaqo-siseko-ngakumbi imiba yokufumana ingxelo ebantwini.

◊ Ityala lizakucacisa ezinye zeengxaki ngamagama kunye namacandelo eTKLA.

◊ I-ARD ixhasa ukwamkelwa kwamaKhoi namaSan kwaye ibambisene nabantu abangamaKhoi namaSan abaza kuchaphazeleka kakubi ngulo Mthetho. Umhlaba wabo kunye namalungelo edemokhrasi nawo asemngciphekweni.

◊ I-ARD ikwaxhasa umthetho wesintu ophilayo kunye nobunkokheli bemveli obunika ingxelo obufumana ukuba semthethweni ebantwini. I-ARD iyakuxhasa umthetho-sikhokelo okhuthaza olo hlobo lobunkokheli bemveli kunye nomthetho wesintu.

◊ Kuyenzeka ukuba urhulumente abamkele abantu abangamaKhoi namaSan, ubunkokheli bemveli kunye nomthetho wesintu ophilayo ngaphandle kokugrogrisa amalungelo abemi basemaphandleni.

Amacandelo afanelekileyo avela kwi-Traditional and Khoi-San Leadership Act 3 ka-2019

Icandelo 23

Inkxaso kwibhunga lobukhosi okanye lobundlunkulu, ibhunga lemveli eliyintloko, ibhunga lemveli, ibhunga lamaKhoi-San kunye nebhungana lesintu

23. (1) Urhulumente wesizwe kunye norhulumente wephondo kufuneka bamisele umthetho okanye amanye amanyathelo njengoko kunokufuneka—

(a) ukuseka nokuqinisa ubukhulu bobukhosi okanye ibhunga lobundlunkulu, ibhunga lemveli eliyintloko, ibhunga lemveli, ibhunga lamaKhoi-San unye nebhunga lesintu ukugcwalisa imisebenzi yayo,eyo nxaso ihlanganisa ukusekwa ngokwezimali kunye nokuhlinzekwa ngoawulo; kunye

(b) zibeke iliso kwaye zilawule iimali zala mabhunga: Ngokuxhomekeke ekubeni iSebe kufuneka, ngokwecandelo 62, libeke iliso kulawulo lwemali yelo bhunga.

(2) Inkulumbuso yephondo ingathi, emva kokucebisana nebhunga lobukhosi okanye lobundlunkulu, ibhunga lemveli eliyintloko, ibhunga lemveli okanye ibhunga lamaKhoi-San elikwiphondo elithile-

(a) ukumisela inani nenani lemivuzo yezithuba ezifunekayo ukwenza imisebenzi yolawulo, yezemali kunye nemisebenzi enxulumene noko enxulumene nemisebenzi yebhunga elithile;

(b) amisele nayiphi na eminye imiqathango yenkonzo esebenza kwezo zithuba; kwaye

(c) ukutyumba abantu abafanelekileyo kwizikhundla ezinjalo ngokungqinelana neenkqubo zokugaya abasebenzi ezisebenza kuloo rhulumente wephondo okanye kumagosa wesibini kurhulumente wephondo ukuba enze imisebenzi enjalo.

(3) *(a)*Ngenjongo yecandelwana (1) iNkulumbuso kufuneka, ngokucebisana uNondyebo wePhondo ochaphazelekayo nangokuxhomekeke kuwo nawuphi na umthetho okanye amanye amanyathelo njengoko kucamngcwe kwicandelwana (1), kubangela ukuba kuvulwe iakhawunti yebhunga ngalinye elisekwe ekubhekiswe kulo kwicandelwana (1) ekufuneka lihlawulwe kulo—

(i) yonke iminikelo yokuzithandela eyenziwe ngamalungu oluntu oluchaphazelekayo;

(ii) zonke iimali ezivela kuyo nayiphi na ipropati eyeyayo okanye elawulwa lelo bhunga;

(iii) nawuphina umnikelo wemali owenziwe kwelo bhunga nangubani na, liqumrhu okanye iziko; iimali njengoko kunokugqitywa okanye kuvunyelwene yiNkulumbuso;

(iv) nayiphi na imali ebhatalwa libhunga ngokuhambelana nezibonelelo zokusebenza kunye okanye isivumelwano njengoko icandelo 24 libonelela kunye

(v) naziphi eziye izimali ezinokugqitywa okanye zivunywe yiNkulubaphathiswa.

(b) Ngeenjongo zolawulo lwayo nayiphina iakhawunti ekubhekiswe kuyo kumhlathi (a), iNkulumbuso kufuneka, ngokubonisana noNondyebo wePhondo ochaphazelekayo nangokuxhomekeke kumhlathi (c) nayo nayiphi na imithetho okanye amanye amanyathelo njengoko kuxelwe kwisiqendwana (1)—

(i) iinkqubo zezemali nolawulo olusebenzayo kuloo akhawunti;

(ii) nayiphi na imiqathango esebenzayo kuloo akhawunti;

(iii) utyalomali lwayo nayiphi na imali libhunga elichaphazelekayo; (iv) ukuhlawulwa kwayo nayiphi na inkcitho libhunga elichaphazelekayo;

(v) iinjongo ezinokuthi zisetyenziselwe nayiphi na imali kwiakhawunti ibhunga elifanelekileyo;

(vi) ukuvalwa kwazo naziphi na ezinye ii - akhawunti, kubandakanya neakhawunti yetrasti kodwa kungabandakanywa iakhawunti yetrasti njengoko kuchaziwe kwicandelo 10 loMthetho woLawulo lwePropati yeTrasti, ka - 1988 (uMthetho onguNombolo. 57 ka - 1988) enye iakhawunti okanye iakhawunti yethemba kwiakhawunti echazwe kumhlathi (a);

(vii) iimfuno zokunika ingxelo ezisebenza kuloo akhawunti; kwaye

(viii) nawaphi na amanye amanyathelo anokubonwa eyimfuneko kwiNkulumbuso ukuqinisekisa ulawulo olululo nolululo lweakhawunti enjalo, kwaye anganyula naliphi na igosa kurhulumente wephondo ukuba lincedise ibhunga elichaphazelekayo kulawulo lwaloo akhawunti okanye ukulawula loo akhawunti egameni lebhunga elifanelekileyo: Ngokuxhomekeke ekubeni ukulungiselela imihlathana (ii) ukuya ku (vii) iNkulumbuso

kufuneka ibonisane nebhunga elifanelekileyo phambi kokwenza nasiphi na isigqibo njengoko kuchaziwe kule mihlathana.

(c) UMphathiswa kufuneka, ngokubonisana noMphathiswa wezeziMali nasemva kothethathethwano neeNkulumbuso, ngesaziso esikwiphepha leGazethi amisele eyona migangatho isezantsi emayilandelwe yiNkulumbuso ngeenjongo zomhlathi (b)(i) ukuya (vii).

(d) Unyaka-mali walo naliphi na ibhunga elixelwe kweli candelo kufuneka ulungelelaniswe nonyaka-mali wesebe lephondo onoxanduva lokubonelela ngenkxaso-mali kwelo bhunga.

(4) *(a)* Urhulumente wephondo apho isebe loluntu lwamaKhoi-San liye lamkelwa kufuneka lisebenzise lo mthetho okanye amanye amanyathelo anokufuneka ekunikezeleni ngenkxaso yolawulo kwelo sebe: Ngaphandle kokuba isebe limi kwelinye iphondo elingelilo iphondo apho ibhunga lama Khoi-San liye lamkelwa khona, iNkulumbuso yephondo elikuyo isebe kufuneka iqale ibonisane neNkulumbuso yephondo apho ibhunga lama Khoi-San likhoyo. ime ngenjongo yokuqinisekisa ukufana kulungiselelo lwenkxaso yolawulo.

(b) Urhulumente wephondo apho isebe loluntu lwamaKhoi-San luthathelwe uxanduva lwenkcitho yezemali ngokunxulumene nokuzimasa iintlanganiso zebhunga lamaKhoi-San lisebe elifanelekileyo intloko.

Icandelo 24

Ubuhlakani nezivumelwano

24. (1) Urhulumente wesizwe noorhulumente bamaphondo banokuthi, ngokusebenzisa umthetho okanye amanye amanyathelo, balawule ubuhlakani nezivumelwano njengoko kuchaziwe kweli candelo.

(2) Amabhunga oKumkani okanye oKumkanikazi, amabhunga emveli aphambili, amabhunga emveli, amabhunga amaKhoi-San kunye namabhungana emveli angangena kubuhlakani nezivumelwano omnye nomnye, kunye no-

(a) oomasipala—

(b) amasebe orhulumente; kunye

(c) nawuphi na omnye umntu, umzimba okanye iziko.

(3) Nawuphi na umanyano okanye isivumelwano esingeniswe naliphi na kumabhunga axelwe kwisiqendwana (2) kufuneka sibhalwe phantsi, ngaphandle kwamalungiselelo awo nawuphi na omnye umthetho—

(a) kufuneka ibe luncedo kuluntu olumelwe lelo bhunga.

(b) kufuneka, ukongeza kuwo nawuphi na umgaqo, ubenezibonelelo ezicacileyo malunga noxanduva lweqela ngalinye kunye nokupheliswa kobu buhlakani okanye isivumelwano; ;

(c) kuxhomekeke ku—

(i) uthethathethwano lwangaphambili noluntu

olufanelekileyo olumelwe lelo bhunga;

(ii) isigqibo sokuxhasa uthelelwano okanye isivumelwano esithathwe sisininzi samalungu oluntu abakhoyo kuthethwano olukhankanywe kumhlathana (i); kwaye

(iii) uthethathethwano lwangokwasemzimbeni kunye noluntu olunezinto ezimbalwa olwafunyanwa ngalo namhlanje;

(d) ixhomekeke ekuqinisekisweni yiNkulumbuso yephondo apho ibhunga lifanelekileyo limi khona kwaye ayisayi kuba nasiphumo de kube kufunyenwe oko kuqinisekiswa; kwaye

(e) ayinakubophelela urhulumente okanye nawuphina umntu, iqumrhu okanye iziko 55 elingeyonxalenye yobambiswano okanye isivumelwano.

(4) Nawuphi na umanyano okanye isivumelwano esixelwe kwisiqendwana (2) kufuneka—

(a) isekwe kwimigaqo yokuhloniphana nokuqondwa kwesimo neendima zamaqela achaphazelekayo; kwaye

(b) khokelwa kwaye usekwe kwimithetho-siseko yolawulo lwentsebenziswano.

(5) Naliphi na ibhunga elixelwe kwicandelwana (2), linokungena kwisivumelwano sokunikezelwa kweenkonzo nomasipala ngokungqinelana noRhulumente waseKhaya: UMthetho weeNkqubo zikaMasipala, 2000 (uMthetho Nombolo 32 ka 2000), kunye neminye imithetho esebenzayo.

(6) INkulumbuso kufuneka—

(a) Ukubeka iliso kubo bonke ubuhlakani kunye nezivumelwano njengoko kuchaziwe kweli candelo kwaye zinokuthatha amanyathelo afanelekileyo ukuqinisekisa ukuphunyezwa ngempumelelo nangokufanelekileyo okanye ukupheliswa kwazo.

(b) unike uMphathiswa iikopi zabo bonke ubuhlakani okanye izivumelwano ezicamngcwe kwicandelwana (3) (d) ekufuneka ezo kopi zigcinwe liSebe kwiziko ledatha elifanelekileyo; kwaye

(c) uphononongo lwentsebenziswano nezivumelwano njengoko kuchaziwe kwicandelo 63(22).

(7) *(a)* INkulumbuso, xa ithathela ingqalelo ulwamkelo lwayo nayiphi intsebenziswano okanye isivumelwano njengoko kuchaziwe kwicandelwana (3)(d), kufuneka yaneliswe ukuba amalungiselelo yecandelwana (3) (a), (b), (c) kunye (e)kuthotyelwe no

(b) Ukuba iNkulumbuso inoluvo lokuba ubuhlakani okanye isivumelwano asithobeli imiqathango yecandelwana (3) (a), (b) , (c)okanye (e), iNkulumbuso kufuneka ibhekise ubambiswano okanye isivumelwano kumaqela angene kolo bambiswano okanye isivumelwano, kunye nezizathu zokungaluqinisekisi ubambiswano okanye isivumelwano, kwaye ubacele ukuba balungise naziphi na iintsilelo ekubhekiswe kuzo kwizizathu zakhe.

Icandelo 25

Ukwabiwa kwendima yobukumkani okanye ibhunga lobukumkanikazi, ibhunga lemveli eliyintloko, ibhunga lemveli, ibhunga lamaKhoi-San, ibhungana lemveli kunye neenkokheli zemveli nezamaKhoi-San

25. (1) Isebe elikuRhulumente wesizwe okanye wephondo, nokuba kunjani, linokuthi, ngokusebenzisa umthetho okanye amanye amanyathelo anike indima kubukhosi bobukumkani okanye kwibhunga lobukhosi, ibhunga lemveli eliyintloko, ibhunga lemveli, ibhunga lamaKhoi-San, Iikhansile zesiphalukana sendabuko kunye neenkokheli zemveli kunye namaKhoi-San malunga nayo nayiphi na indawo esebenzayo yesebe elinje: Ngokuxhomekeka ekubeni le ndima ayinakubandakanya naliphi na igunya lokwenza izigqibo.

(2) *(a)* Inkqubo emayilandelwe ukulungiselela indima ebonakaliswe kwicandelwana (1) kuwo nawaphi na amabhunga okanye iinkokeli ezicamngcwe kweli candelwana, kwanobungakanani , kunye nemiqathango kunye nezixhobo eziqhotyoshelwe kulo naluphi na ulungiselelo olunjalo, ngokuxhomekeke kumhlathi (b), unokumiselwa lisebe elichaphazelekayo.

(b) Phambi kokuba isebe libonelele ngendima exelwe kwisiqendwana (1), elo sebe kufuneka—

(i) kwimeko yesebe lesizwe, fikelela kwimvumelwano noMphathiswa ze uthethathethane neNdlu kaZwelonke; kwaye

(ii) kwimeko yesebe lephondo, fumana imvumelwano nelungu leBhunga elinoLawulo oluPhezulu elijongene nemicimbi yemveli yephondo elifanelekileyo ze uthethathethane nezindlu ezifanelekileyo zephondo nezeengingqi.

(3) Apho isebe libonelele ngendima kulo naliphi na ibhunga okanye inkokeli ecamngcwe kwicandelwana (1), elo sebe kufuneka libeke iliso ekuphunyezweni kwendima leyo liqinisekise ukuba—

(a) ukwenziwa kwendima kuyahambelana noMgaqo-siseko kunye nawo nawuphi na umthetho ofanelekileyo; kwaye

(b) indima iyenziwa ngokufanelekileyo nangokufanelekileyo.

(4) Apho nawaphi na amabhunga okanye iinkokeli ezicamngcwe kwicandelwana (1) ezingayiphumezi indima njengoko kucamngcwe kwicandelwana (3), loo ndima okanye naziphi na izibonelelo ezinikwa ibhunga okanye inkokeli enjalo ukwenza loo ndima zinokurhoxiswa. Isebe elichaphazelekayo: 50 Ngaphandle kokuba phambi kokurhoxa okunjalo, isebe elichaphazelekayo kufuneka kuqala libeke izizathu zokuba le ndima ayenziwanga kwaye, apho kukho imfuneko, lixhase loo mabhunga okanye iinkokheli ukuze zikwazi ukwenza indima.

(5) *(a)* Xa isebe likazwelonke okanye lephondo lenze amalungiselelo endima njengoko kuchaziwe kwicandelwana (1), elo sebe malazise iSebe—

(i) ubungakanani bayo;

(ii) iimeko kunye nezixhobo ezihambelana noko; kwaye

(iii) igama lebhunga elifanelekileyo okanye inkokeli.

(b) Xa isebe likazwelonke okanye lephondo lirhoxisa indima okanye izixhobo njengoko kuchaziwe kwicandelwana (4), elo sebe malazise iSebe ngezizathu zokurhoxa.

(c) ISebe kufuneka ligcine iirekhodi ezifanelekileyo zolwazi oluchazwe kwimihlathi (a) kunye (b).

(6) Ulwabiwo okanye ukurhoxiswa kwendima njengoko kuxeliwe kweli candelo kufuneka kupapashwe ukuze kuphawulwe kwiGazethi okanye kwiGazethi yePhondo, njengoko kunokuba njalo, isebe elifanelekileyo.

Icandelo lama 63. (3), (4), (21) no (22)

Amalungiselelo enguqu

63 (3) Nasiphi na " isizwe " esathi sasekwa phambi komhla wama-24 kuSeptemba 2004, sasisekiwe ngokwemigaqo yomthetho osetyenziswayo kwaye sasisaziwa njalo, sithathwa ngokuba luluntu lwemveli oluxelwe kwisiqendu 3 salo Mthetho, ngokulawulwa—

(a) ukurhoxiswa kokuqondwa kwayo ngokwemiqathango yecandelo 4; okanye

(b) ingcebiso ye-CTLDC, apho kufanelekileyo.

(4) *(a)* Igunya lesizwe elathi, phambi komhla wamashumi amabini anesine kwinyanga yoMsintsi ngo-2004, lasekwa laza laziwa njengelo, lathathwa njengebhunga lemveli njengoko kucamngcwe kwicandelo 16 lalo Mthetho. kufuneka enze imisebenzi ekubhekiswe kuyo kwicandelo lama-20: Ngaphandle kokuba isiphathamandla esinjalo sesizwe kufuneka siphinde senziwe ngokutsha ukuze sihambelane nezibonelelo zecandelo 16(2) kwisithuba seminyaka emibini ukusukela kumhla wokuqaliswa kwalo Mthetho.

(b) Ukuba, ngaphambi kokuqala kwalo Mthetho, naliphi na igunya lesizwe laphinda lakhiwa njengoko kuchaziwe kumhlathi (a),kodwa lo mthetho-siseko awuzange uthobele zonke iimfuno zecandelo le-16 (2), igunya elinjalo lesizwe lithathwa njengebhunga lemveli kwaye kufuneka, kwisithuba seminyaka emibini uqalile lo Mthetho, liphinde lenzeke kwakhona ngokuthobela ngokupheleleyo imiqathango yecandelo 16 (2).

(c) Ukuba amaxesha amisiweyo acacisiwe kumhlathi (a) okanye (b) Amaxesha abekiweyo aphelile kwaye emva kokubonisana neNkulumbuso echaphazelekayo, sebenzisa imiqathango yecandelo 16 (2) ukuqinisekisa ukuba loo gunya lobuzwe okanye ibhunga lemveli liyakhiwa okanye limiselwe ngokutsha ngokwemiqathango yecandelo 16 (2).

(d) Amagatya ecandelo le-16(5) asebenza kuwo nawuphi na umgaqo-siseko okanye ekuhlengahlengisweni kwakhona okucamngcwe kweli solotyana.

(21) Kwimeko apho imeko yolawulo lwebhunga lemveli okanye ibhungana lesintu licacisiwe ngokomthetho wepalamente wezwelonke okanye wephondo phambi kokusebenza kwalo Mthetho, iNkulumbuso kufuneka, kwisithuba seminyaka emithathu uqalile ukusebenza lo Mthetho, okanye elinye ixesha elinokumiselwa nguMphathiswa, libe nemimandla yolawulo lize lizipapashe ngesaziso kwiPhondo kwiGazethi.

(22) *(a)* Nawuphi na umanyano okanye isivumelwano ekungenwe kuso libhunga lobukhosi okanye lobukumkanikazi, ibhunga lemveli eliyintloko, ibhunga lemveli okanye ibhungana lesintu ngaphambili ukuya ekuqaleni kwalo Mthetho, kufuneka, kwisithuba seminyaka emithathu ukusukela oko kuqalisa, iphononongwe yiNkulumbuso echaphazelekayo ukufumanisa ukuba ngaba olo bambiswano okanye isivumelwano siyahlangabezana neemfuno zeli candelo 24(3)(a), (b), (c), (e) kunye (4).

(b) Ukuba iNkulumbuso inoluvo lokuba ubuqabane okanye isivumelwano esikhankanyiweyo kumhlathi kumaqela angene kolo bambiswano okanye isivumelwano kwaye acela ukuba benze utshintsho okanye bangene kwakhona kubambiswano okanye isivumelwano sokuqinisekisa ukuthotyelwa kwecandelo 24(3) (a), (b), (c), (e) kunye (4), okanye ukucima ubambiswano okanye isivumelwano.

(c) Imiqathango yecandelo 24 (6) isebenza kwintsebenziswano nezivumelwano ezikhankanywe kweli candelo.

(d) Izibonelelo zeli candelwana azisebenzi nakweyiphi na intsebenziswano okanye isivumelwano ekungenwe kuso ekuqaleni kwalo Mthetho ngokuhambelana nawo nawuphi na umthetho owenzayo.

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