



UMKHANKASO OTHI STOP THE BANTUSTANS

Ukuyisa i-Traditional and
Khoi-San Leadership Act
3 of 2019 enkantolo





I-TKLA IBALULEKILE ngoba okokuqala ngqa iqaphela ngokomthetho imiphakathi yama-Khoi and San kanye nabaholi bayo eNingizimu Afrika.

Njengomthetho obukhona ngaphambilini okuyi-Framework Act, i-TKLA iyaziqaphela izikhungo zendabuko, imiphakathi kanye namasiko, okuyinto eqhubeka iyingxenye ebalulekile ezigidini zabantu baseNingizimu Afrika. Lona Mthetho uhlanganisa zonke izishayamthetho zamasiko nobuholi. Noma kunjalo uba yingozi enkulu uma ziza entandweni yeningi nakumalungelo wendawo. Ukubhalwa kwalo Mthetho kanye nowandulele kunikeze ithuba lokuhilela intando yeningi ezikhungweni zobuholi bendabuko kanye nomthetho wesintu, nokuqeda konke ukuhlanekezelwa okweza nabamhlophe. Ngokudabukisayo lelo thuba alizange lisetshenziswe kahle.



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I-STOP THE BANTUSTAN BILLS iwumkhankaso oqaliswe yi-Alliance for Rural Democracy (ARD) ngo-2018.

Phakathi kokunye, umkhankaso uqwashise abantu baseNingizimu Afrika ngezinguze ze-Traditional and Khoi-San Leadership Act 3 ka-2019 (TKLA). Omakadebona abathile bomzabalazo wenkululeko baye bawusekela umyalezo womkhankaso. NgoJuni 2019, i-ARD yahola abantu abangaphezu kuka-1200, kuhlangele abantu abahlala emaphandleni, embhikishweni owawulibangise e-Union Buildings, beyocela uMongameli uRamaphosa ukuba angawugunyazi umthetho we-TKLA. UMongameli wasiziba lesi sicelo! Ngo-Ephreli 2021, i-TKLA yaba wumthetho.



Namuhla..

- ◇ Umkhankaso usekela imiphakathi nezinhlangano eziphikisana ne-TKLA enkantolo.
- ◇ Ithi i-TKLA ayihlangabezani nalokho okushiwo wuMthethosisekelo futhi ibeka izakhamuzi eziningi zasemaphandleni ezingozini ezindaweni ezaziyi-Bantustans, kanye nemiphakathi yama-Khoi-San.
- ◇ Nokho, lo mkhankaso **AWUPHIKISANI** nokuqashelwa okungokomthetho kwefa lama-Khoi and San, imiphakathi nabaholi.
- ◇ Lo mkhankaso **AWUPHIKISANI** nomthetho wesintu kanye nobuholi bendabuko. Uzama ukuqinisekisa ukuthi uhlobo lobuholi bendabuko kanye nomthetho wesintu oqashelwa umthetho kahulumeni uvumelana nentando yeningi, awumelani nesiko futhi awuhlanekezelwanga abamhlophe.



Umlando nomsuka we-TKLA

2015

- I-Traditional and Khoi-San Leadership Bill yethulwa
- EPhalamende.

2016-2018

- Ukubamba iqhaza komphakathi kwenziwa yi-
- National Assembly kanye Nezishayamthetho
- Zikazwelonke ukuze kuqoqwe ukuphawula okumayelana ne-Bill.

NOVEMBA 2019

- UMongameli uRamaphosa usayina i-Bill ayenze ibe
- umthetho – I-Traditional and Khoi-San Leadership
- Act 3 of 2019 (TKLA). Lesi yisinyathelo sokugcina sokwenza umthetho omusha.

DISEMBA 2020

- UMongameli uRamaphosa unyathelisa usuku
- lokuqala lwe-TKLA.

1 EPHRELI 2021

- I-TKLA iqala ukusebenza futhi ithathela indawo
- imithetho yangaphambili yobuholi bendabuko
- njenge-Traditional Leadership and Governance Framework Act of 2003 (Framework Act).



**Yini engalungile
nge-TKLA
ngemiphakathi
yendabuko
neye-Khoi-San?**



1. Izakhamuzi zasemaphandleni zingase zithathelwe amalungelo okuba abanikazi bemihlaba yazo

INgxenye 24 ithi Imikhandlu Yendabuko ingenza izivumelwano ngaphandle kokucela imvume yabantu abakhile abazothinteka noma okuzothinteka amanye amalungelo abo. (bheka ikhasi 30).

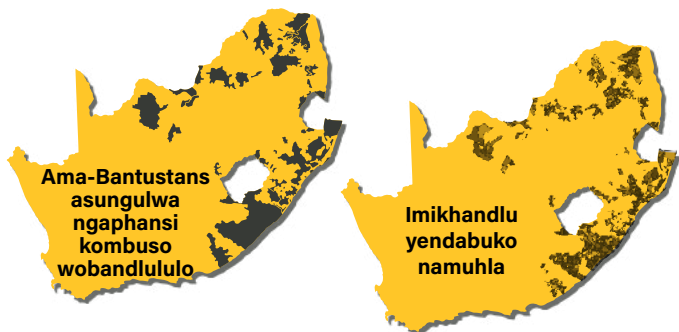
- ◇ Abantu abanamalungelo omhlaba ngokwendabuko noma amanye amalungelo 'angaqashelwa' wuhulumeni abavikelwa, akukhulunywa nabo noma banxeshazelwe, okuyinto ephikisana nezimfuneko ze-Interim Protection of Informal Land Rights Act of 1996 (IPIIRA).
- ◇ I-IPIIRA ithi lapho amalungelo abantu omhlaba ethathwa ngokusemthethweni, kumelwe banxeshazelwe.



2. Izakhamuzi zasemaphandleni azikwazi ukuphendulisa iziphathimandla zendabuko ngendlela ezisebenzisa ngayo imali yomphakathi

I-TKLA ayinikezi mathuluzi aphumelelayo angasiza izakhamuzi zasemaphandleni zithole iminingwane mayelana nemikhandlu yendabuko enakekela izimali zazo.

- ◇ Yonke imali yomphakathi yendabuko evela kunoma yimuphi umthombo isizongena kuma-akhawunti asebhange alawulwa uhulumeni (Bheka iNgxenywe 23 yomthetho ekhasini 26). Le ndlela yokwenza sekuphele amashumi eminyaka isetshenziswa eNorth West okuye kwaholela ekulahlekeni kwezimali eziningi zomphakathi.
 - » Imiphakathi eminingi yendabuko iye yalahlekelwa yimali eningi kakhulu ngenxa yezenzo zemikhandlu yendabuko, abaholi bendabuko kanye nohulumeni besifundazwe
 - » ENorth West, i-Bakgatla ba Kgafela yalahlekelwa yimali engaba ngu-R5 billion (bheka umbiko we-Baloyi Commission <http://www.saflii.org/images/baloyi.pdf>), kuyilapho i-Bapo ba Mogale ilahlekelwe yi-R800 million (bheka umbiko Womvikeli Womphakathi <https://www.customcontested.co.za/wp-content/uploads/2017/07/Bapo-Ba-Mogale-D-Account-Investigation-Report-002.pdf>)
- ◇ Noma kunjalo, le ndlela yokunakekela izimali eyinhlekelele okuthiwa yi "D-account" yemikhandlu yendabuko ebisebenza kuphela esifundazweni saseNorth West, manje isizosebenza kuzo zonke izifundazwe.



3. Igcina indlela yokwenza yangezikhathi zobandlululo futhi isibuyisela enqubweni ye-Bantustan yokuhlukanisa umhlaba

Lokhu kwakhiwe ngokususa abantu ngenkani ezindaweni zabo, abanye abantu bephoqwa ukuba bawele kwesinye isizwe noma bafakwe ngaphansi kwezizwe neziphathimandla zomdabu abangekho ngaphansi kwazo.

- ◇ Izizwe zizoshintshwa zibizwe ngokuthi yimiphakathi yendabuko.
- ◇ Iziphathimandla zesizwe sezizobizwa ngokuthi yimikhandlu yendabuko.
- ◇ Imigcele yemikhandlu yendabuko iqala phansi inqubo ye-Bantustans (bheka ilabazwe elingaphezulu).
- ◇ Izakhamuzi zasemaphandleni ziqhubeka zivalelekile ezindaweni ezifanayo ze-Bantustan eziqhubeka zikhona ku-TKLA, zihlukaniswe ngokwezizwe futhi zifakwe ngaphansi kobuholi bendabuko obungaphikiswa obasungulwa ohulumeni bobandlululo.
- ◇ Ingxenye enkulu ye-TKLA izosebenza kuphela kulezi zindawo eNingizimu Afrika.

4. Umthetho wesintu ongasekelwe entandweni yeningi olandela izindlela zombuso wobandlululo

I-TKLA iyaphambana nendlela Inkantolo Yomthethosisekelo echaza ngayo umthetho wesintu, ithi 'wumthetho ophilayo' ovumelana nezimo oshintsha ngokuhamba kwesikhathi futhi uchazwa abantu abawusebenzisayo.

- ◇ Esikhundleni salokho, i-TKLA isebenzisa incazelo yombuso wobandlululo womthetho wesintu lapho khona abaholi bendabuko beba ababalulekile bese kuthi imiphakathi iba ngezansi.
- ◇ Ukubhekisela okumbalwa entandweni yeningi obekukhona ku-Framework Act .
 - » Zonke izinqumo zenziwa yimikhandlu yendabuko, izindlu zasebukhosini kanye nohulumeni ngaphandle kwanoma iyiphi imfuneko yokubuza umphakathi ngaphandle kokuthola imvume ebantwini abangabaphathi abathintwa amalungelo endawo noma umphakathi.
 - » Isusa Umthetho Wokuziphatha wemikhandlu yendabuko esikhaleni sawo ifake esikhundleni sawo ocishe ufane Nomthetho Wokuziphatha ovela ku-Municipal Systems Act osebenza kubaholi abakhethiwe, okususe konke ukubhekisela "emphakathini" kanye "nasentandweni yeningi".
 - » Isuse okuthi kuwumsebenzi wabaholi bendabuko namakhansela ukwenza "ngendlela ezuzisa umphakathi wendabuko" endaweni yayo yafaka ukwenza "ngendlela ezuzisa ... umkhandlu".



- » Umthetho Omusha Wokuziphatha unikeza izimvume ezengeziwe zobumfihlo ezingasiza imikhandlu yendabuko igcine izingxoxo nezinqumo ezimayelana nezinsiza ezivamile zomphakathi ziyimfihlo.
- » I-TKLA ayisadingi ukuthi imikhandlu yendabuko ichaze amarekhodi ayo, izitatimende zezimali, izipho neminikelo emiphakathini yayo kodwa njengamanje lokho seyikwenza kuNdunankulu.
- » Ikipha noma inciphise ukubamba iqhaza kwemiphakathi yendabuko ebuholini bendabuko
- » Inciphisa izinto ezidalula amaqiniso kanye nokuphendula kwabaholi bendabuko; futhi
- » Ifaka ukusetshenziswa kwebhange elilawulwa uhulumeni emiphakathini yendabuko – okuyindlela okulula ukuyisebenzisa kabi nangenkohlakalo. kususiwe.

5. Ukuziba ukuhluleka kukahulumeni ukuguqula izikhungo zendabuko

Lapho uMthethosisekelo uba wumthetho eNingizimu Afrika, uhulumeni waqaphela isidingo sokuhlanganisa izikhungo zobuholi bendabuko nemithetho yentando yeningi – inqubo ebizwa ngokuthi 'uguquko'. Lokhu kwakubangelwa ukuthi abantu babengasabethemi abaholi bendabuko ngemva kokuba abamhlophe nohulumeni wobandlululo ebasebenzise njengamathuluzi okucindezelwa kwabantu esikhathini esidlule.

- ◇ I-Framework Act yashintsha iziphathimandla zezizwe zaba yimikhandlu yendabuko engena esikhundleni ngokhetho – edinga ukuba u-40% wamalungu ukhethwe umphakathi futhi ingxenye yesithathu kube abesifazane.
- ◇ Kwasungulwa iKhomishana Yobuholi Bendabuko Yezingxabano Nezimangalo ukuze kuphenywe izingxabano ezisabalele kanye nezimangalo ezimayelana nokuthi obani okufanele bangene ezikhundleni zobuholi bendabuko.
- ◇ Zombili lezi zindlela zahluleka – kwezinye izifundazwe kwenziwa ukhetho ngendlela engafanele nangemva kosuku lokuvala, kuyilapho eLimpopo kungekho khetho olwenziwa.
- ◇ Okuningi okwatholwa yiKhomishana kuye kwaphikiswa enkantolo.
- ◇ I-TKLA ayinazo izindlela eziphumelelayo zokuphendulisa iziphathimandla zendabuko ezingakaguqulwa. Esikhundleni salokho isebenzisa izindlela ezifanayo zoshintsho ezihlulekile.
- ◇ IKhomishana iye yavalwa ukuba ngaphansi kwe-TKLA, kuyilapho kusekhona izingxabano eziningi ezisaqhubeka.



6. Yakha isigaba sesine sikahulumeni

UMthethosisekelo uvumela kuphela izinhlaka zikahulumeni ezikhethe ukuba zibuse. Lokho kubalulekile ukuze kuqinisekiswa ukuthi abantu baseNingizimu Afrika bangabaphendulisa labo abaphethe kusetshenziswa ukhetho.

- ◇ Noma kunjalo, Ingxenye 25 ye-TKLA (bheka ikhasi 33) ivumela ukuba uhulumeni neminyango ukuba yabe imisebenzi ngokuvamile eyenziwa abaholi bendabuko nemikhandlu bese iyibiza ngokuthi 'izindima' ezingacacile.
- ◇ Okufanayo okuhlinzekwa yi-Framework Act kuye kwaholela ekutheni iziphathimandla zendabuko zithole amandla engeziwe okumelwe kube ngawezinhlaka zikamasipala kanye nezinye izinhlaka zomphakathi.
 - » Ukukhishwa kwezincwadi zobufakazi bendawo yokuhlala, ezidingwa abantu ukuze bathole izinsiza ezibalulekile njengamadokhumeni kamazisi ukuze bavule amakhawunit asebhange.
 - » Izingqumo zokusetshenziswa komhlaba ngokwe-Spatial Planning and Land Use Management Act 16 of 2013.
 - » Ukwabiwa komhlaba.
- ◇ Abaholi bendabuko bangena ezikhundleni ngaphandle kokhetho futhi ngenxa yalokho akufanele baphathe ezintweni zikahulumeni. Uma bewasebenzisa kabi amandla abo, abaphenduli kumuntu!

7. Ukuphatha imiphakathi ye-Khoi-San ngendlela ehlukile

Nakuba abaholi bama-Khoi-San bephethe abantu abathile kuphela, njengoba bengakwazi bengenakukwazi ukufinyelela izindawo ezithile, abaholi bendabuko balawula kuphela indawo ethile nabo bonke abantu abahlala kuleyo ndawo.



Iphalamende likhetha ukungakulaleli lokho okushiwo abantu basemaphandleni

I-Alliance for Rural Democracy
kanye nezakhamuzi zasemakhaya
zethamela izingxoxo zomphakathi
ezazibizwe yiPhalamende futhi
bayenqaba i-Traditional and
Khoi-San Leadership Bill.



Uhulumeni uhlanganise izakhamizi zasemaphandleni wabiza imbizo.

- ◇ Izinkinga zezinqubo zokubamba iqhaza komphakathi zazihlanganisa:
 - » izaziso zomhlangano ezazithunyelwa sekwephuzile;;
 - » ukushintshwa ngomzuzu wokugcina kwendawo yomhlangano;
 - » ukuba kude kwezindawo zomhlangano emiphakathini yasemaphandleni;
 - » ukungabibikho kwamakhophi e-Bill emihlanganiweni eminingi; futhi
 - » i-Bill ibitholakala ngesiNgisi kuphela.
- ◇ Ezindaweni eziningi i-Bill ibikhangiswa njengethinta imiphakathi yama-Khoi-San kuphela.
- ◇ Abaholi bendabuko yibona abebekhuluma kakhulu emihlanganweni.



Ukuya enkantolo

**I-ARD iya Enkantolo
YoMthethosisekelo imelela
izakhamuzi zasemaphandleni
ngenxa yokuba sengozini
kwamalungelo azo
omthethosisekelo kanye
nawesiko ngaphansi kwe-TKLA.**

Ilwa nokuthi i-TKLA iphikisana nalokho umthethosisekelo wethu osekelwe kukho, okutholakala nasemthethweni wesiko. Lokhu kusekelwe emthethweni wentando yeningi, ukuphendula ngezenzo zakho kanye nenkululeko. I-TKLA iphinde yasongela amalungelo omphakathi okuba nendawo, ukulingana, nenkululeko yokuxhumana nabanye, ubulungisa kanye nelungelo lokubamba iqhaza emphakathini nakwesombusazwe.

I-ARD kuhlanganise nezakhamuzi zasemaphandleni ziphikisana nezingxenywe ze-TKLA ezisongela ukuphila kwazo kanye namalungelo omhlaba. Zikhathazekile nge-TKLA ngenxa yokuthi zikubonile ukuhlupheka kanye nezinkinga ezibangelwe yi-Framework Act.

◇ Kusukela ku-Framework Act yaqala ukusebenza:

- » Elimpopo, iziphathimandla zendabuko ziyе zakwazi ukuthola imvume yasenkantolo yokuvimba amalungu omphakathi ekubeni nemihlangano. Lokhu kwenzeka ngisho nangemva kokuba Inkantolo Yomthethosisekelo iveze ukuba lokhu akukho emthethweni ku *Pilane vs Pilane* (2013).
- » Iziphathimandla zendabuko eLimpopo kanye nasezingxenyeni zaKwaZulu-Natal bezilokhu zikhokhisa izakhamuzi zasemaphandleni imali ethile. Lapho izakhamuzi zasemaphandleni zehluleka ukukhokha lemali, ziyenqatshelwa ukuthola ubufakazi bendawo yokuhlala, okuyinto izakhamuzi eziyidingayo ukuze zithole amadokhumenti kamazisi. Abantu abakwazi nokuthola izindawo zokungcwaba kanye nezinye izinsiza uma behluleka ukukhokha le mali
- » Umphakathi eLimpopo ubulokhu uhlukunyezwa umholi wendabuko ophambili obebaphethe ngendluzula. Lapho umphakathi ungenzi ngokuvumelana nalokho okushiwo yilo mholi, usebenzisa ibutho lakhe elibizwa ngokuthi yi- "Green Berets". Ushabalalise izinhlaka ezakhiwe abantu ngoba bebengenayo imvume yakhe. Ama-Green Berets aphinde asetshenziselwe ukuhlasela, nokuvalela ezakhiweni zomkhandlu womdabu, noma yimaphi amalungu omphakathi enqaba ukwenza lokho okushiwo yilo mholi wendabuko.



- ◇ Icala lasenkantolo lizochaza izinkinga ezivele ngesikhathi iPhalamende nezishayamthetho zezifundazwe zisebenza nge-TKLA futhi kuvezwe ukuthi kungani inqubo ingavumelani nomthethosisekelo – ikakhulukazi izinkinga ezimayelana nokuthola uvo lomphakathi.
- ◇ Icala lizophinde liqokomise ezinye zezinkinga ezimayelana nezindlela okubhalwe ngayo izingxenye ezithile ku-TKLA.
- ◇ I-ARD iyakweseka ukuqashelwa kwama-Khoi and San futhi iyabasekela abantu abangama-Khoi and San abazothonywa kabi uMthetho. Umhlaba wabo kanye namalungelo abo entando yeningi asengozini.
- ◇ I-ARD iphinde isekele umthetho wesintu ophilayo kanye nokuphendula kwabaholi bendabuko ngezenzo zabo njengoba nje bekhethwe abantu. I-ARD izokweseka umthetho othembisa lolo hlobo lobuholi bendabuko kanye nomthetho wesintu.
- ◇ Uhulumeni ungakwazi ukuqaphela abantu abangama-Khoi and San, ubuholi bendabuko kanye nomthetho wesintu ophilayo ngaphandle kokusongela amalungelo abantu basemaphandleni.



**Izingxenye
Ezifanele
ezivela ku-
Traditional
and Khoi-San
Leadership Act
3 ka-2019**

INgxenye 23

Ukweseka umkhandlu wobukhosi, umkhandlu oyinhloko wendabuko, umkhandlu wendabuko, umkhandlu wama- Khoi-San kanye nomkhandlu ongaphansi wendabuko

23. (1) Uhulumeni kazwelonke ungase, futhi uhulumeni wesifundazwe kumelwe usebenzise imithetho enjalo noma ezinye izinyathelo kuye ngesidingo ukuze—

(a) kusekelwe futhi kuqiniseke ukusebenza kwemikhandlu yobukhosi, imikhandlu eyinhloko yendabuko, imikhandlu yendabuko, imikhandlu yama-Khoi-San kanye nemikhandlu engaphansi yendabuko ukuze yenze imisebenzi yayo, futhi ukweseka okungaleyo ndlela kuhlanguanisa ezokuphatha nezezimali; kanye

(b) nokuqapha nokulawula izimali zemikhandlu enjalo: Uma uMnyango kumelwe, ngokuvumelana nengxenye 62, uqaphe ukulawulwa kwezimali kwemikhandlu enjalo.

(2) UNdunankulu wesifundazwe angase, ngemva kokubonisana nomkhandlu wasebukhosini, umkhandlu oyinhloko wendabuko, umkhandlu wendabuko noma kunjalo umkhandlu wama-Khoi-San osesifundazweni esithile—

(a) anqume inani kanye namazinga enkokhelo ezisebenzi ezidingekayo ukuze kwenziwe imisebenzi yokuphatha nokuqondisa, eyezimali kanye neminye imisebenzi edingekayo ukuze umkhandlu othile wenze imisebenzi yawo;

(b) anqume noma yiziphi izimo zensiza esebenza ezikhundleni ezinjalo; kanye

(c) nokukhetha abantu abafanele ezikhundleni ezinjalo ngokuvumelana nezinqubo zokuqasha izisebenzi ezisebenza kulowo hulumeni wesifundazwe noma kugunyazwe izikhulu ezithile ezivela kuhulumeni wesifundazwe ukuba zenze imisebenzi enjalo.

(3) (a) Ngezinjongo zengxenyana (1) uNdunankulu kumelwe, ngemva kokuxhumana Nomgcinimafa Wesifundazwe ofanele kanye nokwenza ngokuvumelana nanoma yimuphi umthetho noma ezinye izinyathelo njengoba kuveziwe engxenyane (1), abangele ukuba kuvulwe i-akhawunti yomkhandlu ngamunye osunguliwe okukhulunywa ngawo engxenyane (1) okumelwe kukhokhwe kuwo—

(i) yonke iminikelo yokuzithandela efakwa amalungu omphakathi ofanele;

(ii) zonke izimali ezitholwa ezakhiweni ezilawulwa noma ezinakekelwa umkhandlu onjalo;

(iii) noma yimuphi umnikelo wezimali othunyelwa emkhandlwini onjalo yinoma yimuphi umuntu, inhlango noma isikhungo; (iv) noma yiziphi izimali ezikhokhwa emkhandlwini ngokuvumelana nezinzuzo zokubambisana noma isivumelwano njengoba kuchaziwe engxenyeni 24; kanye

(v) nanoma yiziphi ezinye izimali ngokunquma noma ngemvume kaNdunankulu.

(b) Ngezinjongo zokulawulwa kwanoma iyiphi i-akhawunti okukhulunywe ngayo engxenyeni (a), uNdunankulu kumelwe, ngokubambisana Nomgcinimafa Wesifundazwe nangokuvumelana nengxenyeni (c) kanye nanoma yimuphi umthetho noma ezinye izinyathelo ezibhalwe engxenyane (1), anqume—

- (i) amasistimu ezimali kanye nezilawuli ezisebenza kuma-akhawunti anjalo;
- (ii) noma yiziphi izimo ezisebenza ku-akhawunti enjalo;
- (iii) ukutshalwa kwanoma yiziphi izimali umkhandlu ohilelekile; (iv) ukukhokhwa kwanoma yiziphi izindleko umkhandlu ohilelekile;
- (v) izinjongo zokusetshenziswa kwemali ekuma-akhawunti anjalo umkhandlu ofanele;
- (vi) ukuvalwa kwanoma yimaphi amanye ama-akhawunti, kuhlenganise i-akhawunti eyi-trust kodwa kukhishwe i-akhawunti eyi-trust njengoba kuveziwe engxenyeni 10 ye-Trust Property Control Act, 1988 (Act No. 57 of 1988), kanye nokuthunyelwa kwanoma yiziphi izimali njengamanye ama-akhawunti noma i-akhawunti eyi-trust ku-akhawunti okukhulunywe ngayo esigabeni (a);
- (vii) izimfuneko zokubika ezisebenza ku-akhawunti enjalo; kanye
- (viii) nanoma yiziphi ezinye izinyathelo ezingase zibhekwe njengezifanele uNdunankulu ukuze kuqinisekiswa ukulawulwa okuphumelelayo kwe-akhawunti enjalo, futhi kungase kukhethwe noma yisiphi isikhulu esivela kuhulumeni wesifundazwe ukuba sisize umkhandlu ohilelekile ngokulawulwa kwe-akhawunti enjalo noma ukulawula i-akhawunti enjalo egameni lomkhandlu ofanele: Uma nje ngokwezinjongo zezigatshana (ii) kuya ku (vii) uNdunankulu kumelwe axhumane nomkhandlu ofanele ngaphambi kokwenza noma yisiphi isinqumo njengoba kuveziwe kulezi zigatshana.

(c) UNgqongqoshe kumelwe, ekhulumisana noNgqongqoshe Wezimali nangemva kokukhuluma noNdunankulu, ngokwesaziso esiku Gazette anqume amazinga aphantsi komthetho okumelwe ulandelwe uNdunankulu ngezinjongo zesigaba (b)(i) kuya ku-(vii).

(d) Unyaka wezimali wanoma yimuphi umkhandlu ochazwe kule ngxenye kumelwe uvumelane nonyaka wemali womnyango wesifunda ohlinzeka ngemali yokweseka umkhandlu onjalo.

(4) (a) Uhulumeni wesifundazwe esifundazweni lapho igatsha lomphakathi wama-Khoi-San liqashelwa khona kumelwe lisebenzise umthetho onjalo noma ezinye izinyathelo kuye ngesidingo ukuze kunikezwe ukweseka kokuphatha egatsheni elinjalo: Uma igatsha likwesinye isifundazwe ngaphandle kwaleso umkhandlu wama-Khoi-San oqashelwa kuso, uNdunankulu wesifundazwe lapho kukhona khona igatsha kumelwe axhumane kuqala noNdunankulu wesifundazwe okukhona kuso umkhandlu wama-Khoi-San ukuze kuqinisekise ukuthi kunokufana lapho kuhlinzekwa ngokweseka kokuphatha.

(b) Uhulumeni wesifundazwe okukhona kuso igatsha lomphakathi wama-Khoi-San eliqashelwe unomthwalo wokuhlinzeka ngezimali ngokuphathelene nokuba khona kwemihlangano yomkhandlu wama-Khoi-San okwenziwa inhloko yalelo gatsha.

Ukubambisana nezivumelwano:

24. (1) Uhulumeni kazwelonke kanye nohulumeni wezifundazwe ungase, kusetshenziswa umthetho nezinye izindlela, ulawule ukubambisana nezivumelwano njengoba kuchaziwe kule ngxenye.

(2) Imikhandlu yobukhosi, imikhandlu eyinhloko yendabuko, imikhandlu yendabuko, imikhandlu yama-Khoi-San kanye nemikhandlu yemikhandlu engaphansi kwayo ingase ibambisane noma yenze izivumelwano ndawonye, kanye—

(a) nomasipala;

(b) iminyango kahulumeni; kanye

(c) nanoma yimuphi omunye umuntu, inhlango noma isikhungo.

(3) Noma yikuphi ukubambisana noma isivumelwano esenziwa yinoma yimiphi imikhandlu njengoba kuvezwe engxenyane (2) kumelwe sibhalwe phansi futhi naphezu kwanoma yini ehlinzekwa yinoma yimuphi omunye umthetho, —

(a) kumelwe izuzise umphakathi omelelwa umkhandlu onjalo.

(b) kumelwe, ukwenzela kunoma yini enye ehlinzekwayo, ibe nokuhlinzekwayo okucacile mayelana nemithwalo yeqembu ngalinye kanye nokunqanyulwa kobuhlobo obunjalo noma isivumelwano;

(c) kumelwe—

(i) kuxoxwe kusengaphambili nomphakathi ofanele omelwelwa yimikhandlu enjalo engu-45;

(ii) isinqumo esisekela ukubambisana noma isivumelwano esithathwa yiningi lamalungu omphakathi akhona njengoba kuvezwa esigatshaneni (i); kanye

(iii) nesinqumo esenziwe ngaphambili salowo mkhandlu esibhaliwe esibonisa ukusekelwa kwemikhandlu engu-50 ngenjongo yalokho kubambisana noma isivumelwano;

(d) kuye ngokuthi uyakugunyaza yini uNdunankulu wesifundazwe okukhona kuso umkhandlu futhi ngeke kube nemithelela kuze kube yilapho lokho kugunyaza kutholakala; futhi

(e) ingabe ingabophi uhulumeni noma omunye umuntu, inhlangotho noma isikhungo esingeyonga ingxenye ku-55 wokubambisana noma isivumelwano esinjalo.

(4) Noma yikuphi ukubambisana okukhona noma isivumelwano esichazwe engxenyane (2) kumelwe—

(a) sisekelwe ekuhloniphaneni nokuqashelwa kwesimo nendima yeqembu ngalinye; futhi

(b) siqondiswe noma sisekelwe ekuholeni ngokubambisana.

(5) Noma yimuphi umkhandlu okukhulunywa ngawo engxenyane (2), ungase ungene esivumelwaneni sokuthunyelwa kwezinkonzo nomasipala ngokuvumelana Nohulumeni Wendawo: I-Municipal Systems Act, 2000 (Act No. 32 of 2000), kanye nanoma yimuphi omunye umthetho osebenzayo.

(6) UNdunankulu kumelwe—

(a) aqaphe konke ukubambisana nezivumelwano njengoba kuchaziwe kule ngxenye noma angase athathe izinyathelo ezidingekayo ukuze aqikelele ukuthi kwenziwa ngendlela efanele noma ukuze akunqamule.

(b) anikeze uNgqongqoshe amakhophi akho konke ukubambisana noma izivumelwano njengoba kuchazwe engxenyani (3)(d) ukuthi yimaphi amakhophi okumelwe agcinwe uMnyango endaweni efanele yokugcina imininingwane; futhi

(c) ahlole konke ukubambisana kanye nezivumelwano njengoba kuchazwe engxenyeni 63(22).

(7) (a) UNdunankulu, lapho ecabangela ukugunyaza noma yikuphi ukubambisana noma isivumelwano njengoba kuchaziwe engxenyani (3)(d), kumelwe aneliseke ngokuthi okuhlinzekwa yingxenyana (3)(a), (b), (c) no (e) kwenziwe ngokuvumelana nakho

(b) Uma uNdunankulu enomuzwa wokuthi ukubambisana noma isivumelwano asihambisana nalokho okuhlinzekwa yingxenyana (3)(a), (b), (c) noma (e), uNdunankulu kumelwe abhekise ukubambisana noma isivumelwano esinjalo emaqenjini angene kulokho kubambisana noma isivumelwano, ndawonye nezizathu zakhe zokungagunyazi ukubambisana noma isivumelwano, futhi abacele ukuba balungise izinkinga ezivele ezizathwini zakhe.

Ukwabiwa kwezindima emkhandlwini wobukhosi, emkhandlwini oyinhloko wendabuko, umkhandlu wendabuko, umkhandlu wama-Khoi-San, umkhandlu ongaphansi wendabuko kanye nabaholi bendabuko nabama-Khoi-San

25. (1) Umnyango kahulumeni kazwelonke noma wesifundazwe, njengoba kungase kube njalo, ungase, usebenzisa umthetho noma ezinye izindlela uhlinzeke ngendima emkhandlwini wobukhosi, emkhandlwini oyinhloko wendabuko, emkhandlwini wendabuko, emkhandlwini wama-Khoi-San, umkhandlu ongaphansi wendabuko kanye nabaholi bendabuko nabama-Khoi-San kunoma yiziphi izindawo zokusebenza emnyangweni onjalo: Uma nje izindima ezinjalo zingahlanganisi amandla okwenza izinqumo.

(2) (a) Inqubo okumelwe ilandelwe ekuhlinzekeni kwendima echazwe engxenyane (1) kunoma yimiphi imikhandlu noma abaholi abachazwe kuleyo ngxenyana, kanye nezinga layo, nezimo nezinsiza ezihambisana nalokho okuhlinzekiwe, kungase, kuye ngesigaba (b), kubhekwe umnyango ohilelekile.

(b) Ngaphambi kokuba umnyango uhlinzeke ngendima njengoba kuye kwachazwa engxenyane (1), lowo mnyango kumelwe—

(i) mayelana nomnyango kazwelonke, uthole imvume kuNgqongqoshe futhi uxhumane Nendlu Kazwelonke; futhi

(ii) esimweni somnyango wesifundazwe, thola imvume yelungu Lesigungu Esiphezulu ephethe izindaba zendabuko esifundeni esifanele futhi uxhumane nezindlu ezifanele zezifundazwe nezasendaweni.

(3) Lapho umnyango uhlinzeke ngendima yanoma yiwuphi umkhandlo noma umholi njengoba kuchazwe engxenyane (1), umnyango onjalo kumelwe uqaphe ukusingathwa kwaleyo ndima futhi kuqikelelwe ukuthi—

(a) ukusetshenziswa kwendima kuhambisana noMthethosisekelo kanye nanoma yimuphi omunye umthetho osebenzayo; kanye

(b) nokuthi indima isingathwa kahle nangokufanele.

(4) Lapho noma yimuphi umkhandlu noma abaholi njengoba kuveziwe engxenyane (1) ungasingathi indima ngendlela okuboniswe ngayo engxenyane (3), indima enjalo noma ezinye izinsiza ezihlinzekwa emkhandlwini noma kumholi ukuze kwenziwe leyo ndima ungase uhoxiswe umnyango ohilelekile: 50 Uma kuwukuthi ngaphambi kokuhoxiswa okunjalo, umnyango ofanele kumelwe uqale uthole izizathu zokungasetshenziswa kwendima efanele nokuthi, lapho kufaneleka khona, kusizwe imikhandlu noma abaholi ukuba bakwazi ukusingatha indima.

(5) (a) Lapho umnyango kazwelonke noma wesifundazwe uhlinzeke ngendima njengoba kuchazwe engxenyane (1), lowo mnyango uyotshela uMnyango we—

- (i) izinga;
- (ii) isimo kanye nesinzisa ezinanyathiselwe; kanye
- (iii) kanye negama lomkhandlu noma umholi.

(b) Lapho umnyango kazwelonke nowesifundazwe uhoxisa indima noma izinsiza njengoba kuchazwe engxenyane (4), iminyango enjalo kumelwe ichazele uMnyango ngezizathu zokuhoxisa okunjalo.

(c) UMnyango kumelwe ugcine amarekhodi afanele eminingwane njengoba kuchaziwe ezigabeni (a) kanye (b).

(6) Ukufakwa nokuhoxiswa kwezindima njengoba kuveziwe kule ngxenye kumelwe kushicilelwe ngokubhala ku Gazette noma i-Gazette yesifundazwe, njengoba kungase kube njalo, umnyango ofanele.

INgxenye 63. (3), (4), (21) no (22)

Amalungiselelo oshintsho

63 (3) Noma yisiphi “isizwe”, ngokushesha ngaphambi komhla ka-24 September 2004, esiye sasungulwa ngokuvumelana nomthetho osebenzayo futhi sisaqhubeka sibhekwa kanjalo, sibhekwa njengomphakathi wendabuko njengoba kuchazwe engxenyeni 3 yalo Mthetho, kuye ngokuthi—

(a) ukuhoxiswa kokuqashelwa ngokuvumelana nokuhlinzekwa ingxenye 4; noma

(b) isincomo se-CTLDC, lapho kufaneleka khona.

(4) (a) Isiphathimandla sendabuko, ngokushesha ngemva komhla ka-24 September 2004, sisunguliwe futhi besibhekwa njengesinjalo, sibhekwa njengomkhandlu wendabuko ochazwe engxenyeni 16 yalo Mthetho futhi kumelwe kwenziwe imisebenzi okukhulunywa ngayo engxenyeni 20: Uma isiphathimandla esinjalo sendabuko siphinde sabekwa ukuze senze ngokuvumelana nokuhlinzekwa ingxenye 16(2) ingakapheli iminyaka emibili kusukela ngosuku lokuqala lo Mthetho.

(b) Uma, ngaphambi kokuqalisa lo Mthetho, noma yisiphi isiphathimandla sendabuko siqaliswe kabusha njengoba kuchazwe esigabeni (a), kodwa ukuqala kabusha okunqala akuzange kuvumelane nazo zonke izimfuneko zengxenye 16(2), iziphathimandla ezinjalo zibhekwa njengomkhandlu wendabuko futhi ikumelwe, kungakapheli iminyaka emibili yokuqala kwalo Mthetho, ibuyiselwe ekusebenzeni okuphelele ngokuvumelana nokuhlinzekwa ingxenye 16(2).

- (c) Uma izinkathi ezivezwe esigabeni (a) noma (b) kungahlangabezwana nazo, uNgqongqoshe angase, ngaphansi konyaka owodwa ngemva kokudlula kwezinkathi nangemva kokuxhumana noNdunankulu ofanele, ukusebenzisa okuhlinzekwa engxenyeni 16(2) ukuba kuqinisekiswa ukuthi isiphathimandla sendabuko noma umkhandlu wendabuko uyasebenza noma uqalwa kabusha ngokuvumelana nokuhlinzekwa ingxenye 16(2).
- (d) Okuhlinzekwa yingxenye 16(5) kusebenza kunoma yimuphi umthethosisekelo noma ukuqala kabusha kule ngxenyana.

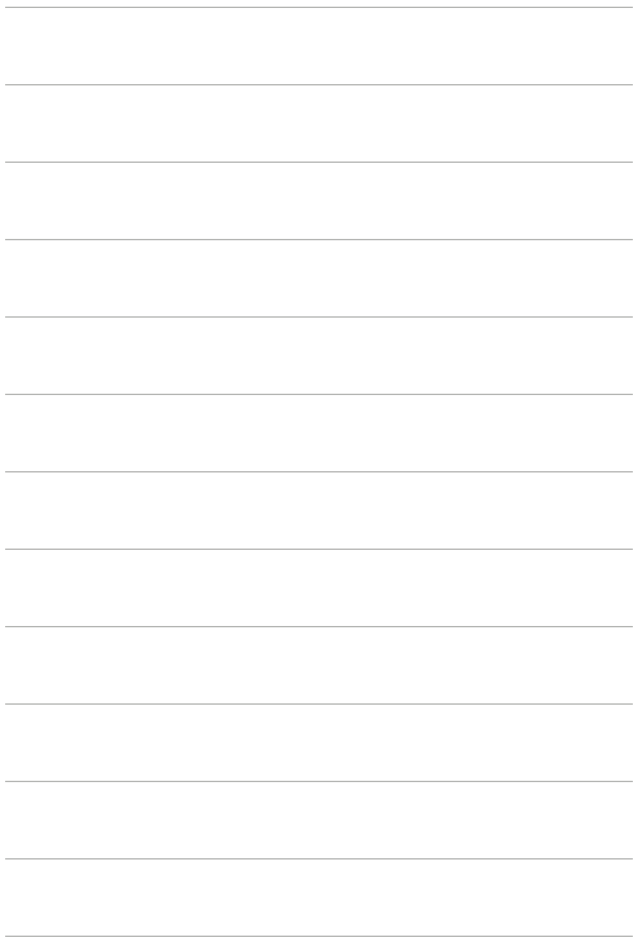
(21) Kunoma yikuphi lapho kulawula khona umkhandlu wendabuko noma umkhandlu ongaphansi wendabuko kuchaziwe ngokuvumela nomthetho kazwelonke noma wesifundazwe ngaphambi kokuqala kwalo Mthetho, uNdunankulu kumelwe, ingakapheli iminyaka emithathu yokuqala kwalo Mthetho, noma inkathi ephambili engase inqunywe uNgqongqoshe, inezindawo ezenziwe ibalazwe futhi zashicilelwa ngesaziso ku Gazette yesifundazwe esifanele.

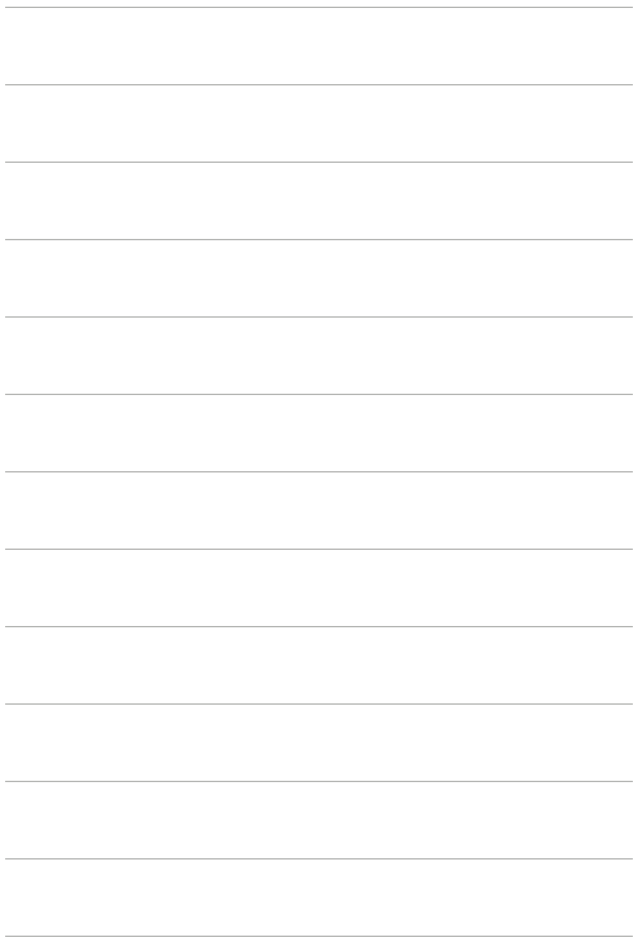
(22) (a) Noma yikuphi ukubambisana noma isivumelwano okungenwa kuso umkhandlu wobukhosi, umkhandlu oyinhloko wendabuko, umkhandlu wendabuko noma umkhandlu ongaphansi wendabuko ngaphambi kokuqala kwalo Mthetho, ingakapheli iminyaka imithathu yokuqala okunjalo, kumelwe kuhlolwe uNdunankulu ukuze kunqunywe ukuthi ukubambisana okunjalo noma isivumelwano siyahlangabezane nezimfuneko zale ngxenyane 24(3)(a), (b), (c), (e) kanye no-(4).

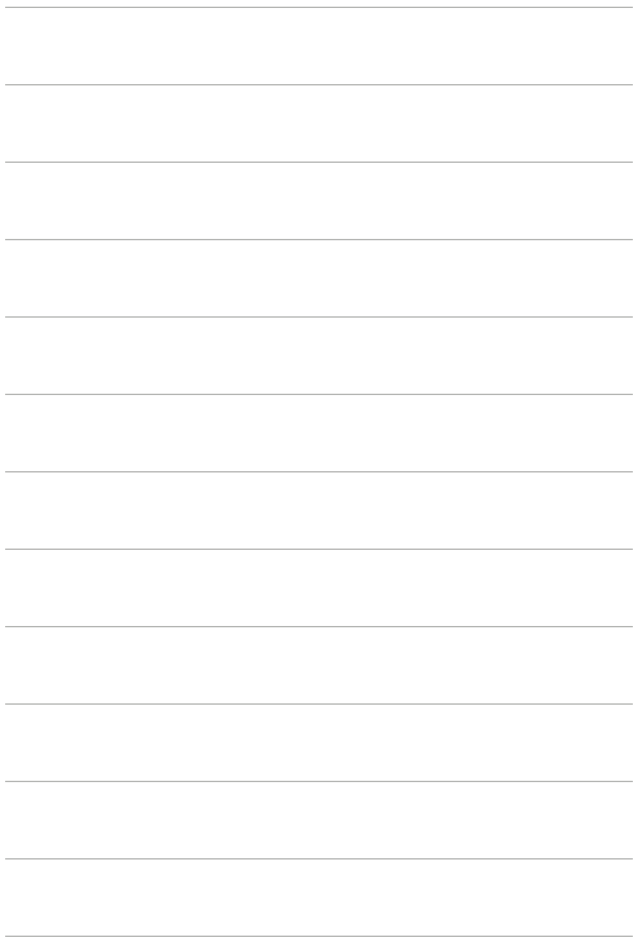
(b) Uma uNdunankulu enomuzwa wokuthi lokho kubambisana noma ubuhlobo okukhulunywa ngabo esigabeni (a) akuhlangabezani nezimfuneko ezinjalo, uNdunankulu kumelwe abhekisele ekubambisaneni okunjalo noma isivumelwano emaqenjini angene ekubambisaneni okunjalo noma isivumelwano futhi kucelwe ukuba kulungiswe noma kungenwe kabusha ekubambisaneni noma esivumelwaneni ukuze kuqikelelwe ukulandelwa kwengxenywe 24(3)(a), (b), (c), (e) ne-(4), noma ukukhansela ukubambisana okunjalo noma isivumelwano.

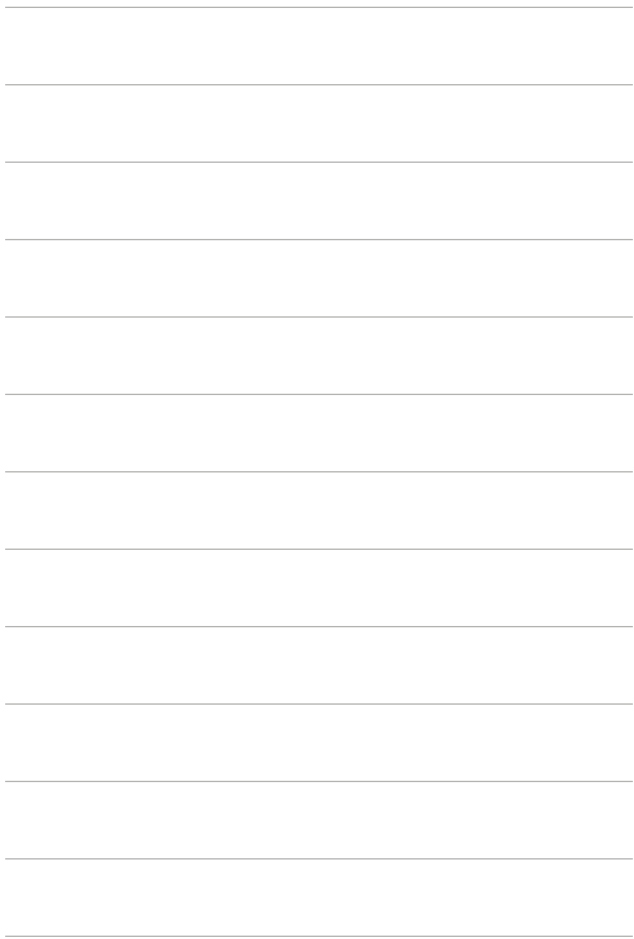
(c) Okuhlinzekwa yingxenywe 24(6) kusebenza ekubambisaneni nasezivumelwaneni ezichazwe kule ngxenyana.

(d) Okuhlinzekwa kulezi zingxenyana akusebenzi ekubambisaneni noma esivumelwaneni, ekuqaleni kwalo Mthetho, okungenwe kuso ngokuvumelana nanoma yikuphi okuhlinzekwa komunye umthetho.









ALLIANCE FOR RURAL DEMOCRACY

Telephone: 010 021 0572

Email: info@ruraldemocracy.org.za

Website: www.ardt.org.za

LEGAL RESOURCES CENTRE

Telephone: 011 038 9709

Email: info@lrc.org.za

Website: www.lrc.org.za

LAND AND ACCOUNTABILITY RESEARCH CENTRE

Telephone: 021 650 3288

Email: pbl-larc@uct.ac.za

Website: www.larc.uct.ac.za



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