

IRIPHABHULIKHI YASENINGIZIMU AFRIKA

**UKUVINJWA KOKUKHISHWA NGOKUNGEMTHETHO KANYE
NOMTHETHOSIVIVINYWA WOKUCHIBIYELA UKUSETSHENZISWA
KOMHLABA NGOKUNGEMTHETHO WONYAKA WE-2026.**

*(Njengoba kwethulwe esiGungwini sikaZwelonke (isigaba esihlongozwayo sama-76); isifinyezo esichazayo soMthethosivivinywa oshicilelwe kuGazethi kaHulumeni No
(Umbhalo wesiNgisi uwumbhalo osemthethweni walo Mthethosivivinywa)*

(UNGQONGQOSHE WEZOKUHLALISWA KWABANTU).

MAWUMMISWE yiPhalamende laseNingizimu Afrika, kanje:

Ukuchitshiyelwa kwesigaba soku-1 soMthetho we-19 ka-1998

1. Isigaba soku-1 Sokuvinjwa Kokukhishwa Ngokungemthetho futhi Okungekho Emthethweni

Umthetho Wokusetshenziswa Komhlaba, 1998 (emva kwalokhu kubhekwe njengomthetho oyinhloko) uyachitshiyelwa

- (a) ngokufaka ngaphambi kwencazelo “isakhiwo noma ukwakhiwa” kwale ncazelo elandelayo:

“enye indawo yokuhlala’ kusho indawo yokuhlala yesikhashana ehlinzekwe ngumnikazi, uhlaka lukahulumeni noma umuntu ophethe evimbela abantu ukuthi bangabi nendawo yokuhlala ngomyalelo wokuxoshwa futhi ozwakalayo ezimeni, kucatshangelwa izinga eliphansi njengoba linqunyiwe kwiKhodi Yezindlu Kazwelonke - 2009, indawo, kanye nokutholakala komhlaba nezinsiza;”.

- (b) ngokufaka esikhundleni sencazelo “yokuxosha” yale ncazelo elandelayo:

“‘ukukhipha’ kusho ukuphuca umuntu indawo yokuhlala [esakhiweni noma ekwakhiweni, noma indawo okwakhiwe kuyo lesa sakhiwo noma ukwakhiwa,] umhlaba engafuni, futhi ‘ukukhishwa’ kunencazelo efanayo;”;

- (c) ngokufaka esikhundleni sencazelo “umhlaba” kule ncazelo elandelayo:

‘umhlaba’ kubandakanya ingxenye yomhlaba nezakhiwo noma ukwakhiwa kuleyo ngxenye yomhlaba;

- (d) ngokufaka esikhundleni sencazelo “uNgqongqoshe” kule ncazelo elandelayo:
 “UNgqongqoshe’ kusho uNgqongqoshe obhekele ukuhlaliswa kwabantu
- (e) ngokufaka esikhundleni sencazelo “umasipala” kule ncazelo elandelayo:
 “ ‘umasipala’ uchaza umasipala [ngokwesigaba se-10B soMthetho Wokushintshwa koHulumeni Basekhaya, 1993 (uMthetho No. 209 ka 1993)] ohlongozwe esigabeni sesi-2 soMthetho Wezinhlelo zikaHulumeni Wasekhaya, wezi-2000 (uMthetho No. 32 ka-2000);”;
- (g) ngokufaka esikhundleni sencazelo “umuntu ophethe” kule ncazelo elandelayo:
 “umuntu ophethe’ uchaza umuntu onegunya noma ngesikhathi esifanele wayenegunya elisemthethweni [ukunikeza imvume kumuntu ukuba angene noma ahlale phezu] kokuphatha noma ukulawula umhlaba okukhulunywa ngawo;”;
- (h) ngokufaka esikhundleni sencazelo “umhlali ongekho emthethweni” kule ncazelo elandelayo:
 “ ‘umhlali ngokungemthetho’ kushiwo umuntu ohlala emhlabeni ngaphandle kwemvume ecacile noma engasho lutho yomnikazi noma umuntu ophethe, noma ongenalo elinye ilungelo elisemthethweni lokuhlala kulowo mhlaba, ngaphandle komuntu ongumhlali ngokoMthetho Wokwelulwa Kokuvikeleka Komhlaba, 1997 (UMthetho No. 62 ka-1997), futhi ngaphandle komuntu [onelungelo lakhe lomhlaba elingakahleleki, kodwa ngezinhlinzeko zalo Mthetho, uzovikelwa yizinhlinzeko zoMthetho Wokuvikelwa Kwesikhashana KoMthetho Wamalungelo Omhlaba Ongahlelekile, 1996 (uMthetho No. 31 ka-

1996)] oqasha abasebenzi ngokoMthetho Wokubuyiswa Kwezindawo Zokuhlala No 3. 1996).’

Ukufakwa esikhundleni kwesigaba sesi-3 soMthetho we-19 ka-1998

2. Ngakho-ke lesi sigaba esilandelayo sishintshwa esikhundleni sesigaba sesi- 3 soMthetho omkhulu:

‘Ukwenqatshelwa [kokwamukela noma ukucela ukucatshangelwa maqondana nokubekwa komhlaba ngokungemthetho] izenzo ezithile

3 (1) Akekho umuntu---

- (a) ngokuqondile noma ngokungaqondile ongathola noma ongacela inkokhelo yanoma iyiphi imali noma okunye ukucatshangelwa njengenkokhelo noma inkokhiso yokuhlela noma ukuvumela umuntu ukuba athathe umhlaba ngaphandle kwemvume yomnikazi, uhlaka lukahulumeni noma umuntu ophethe lowo mhlaba[.]; noma
- (b) ukugqugquzela, ukulungisa, ukuhlela noma ukuvumela noma yimuphi umuntu ukuthi ahlale emhlabeni ngaphandle kwemvume yomnikazi, uhlaka lukahulumeni noma umuntu ophethe kulowo mhlaba.

(1A) Imali noma ukucatshangelwa okuhlongozwe esigatshaneni (1)(a) kubandakanya, kodwa akukhawulelwe, ezindlekweni zohlelo lwabahlali ngokungemthetho, izindleko zomthetho, izindleko zokuphatha, izinsizakalo, izimali zokuxhunywwa kwezinsizakalo, ukukhokhelwa kwanoma iyiphi ingqalasizinda yezehlalo-mnotho, nanoma yiziphi izimpahla ezitholwe ngaleyo mali: Kuncike ekutheni inkomba ‘yezindleko zomthetho’

angeke zihlanganise imali eqoqwe ngezindleko ezihambisana nokuphikiswa kokukhishwa.

(2) Noma yimuphi umuntu owephula inhlawulo yesigatshana (1) unecala futhi uma elahlwa uzohlawuliswa inhlawulo engeqile ku-R2 000 000.00 noma agqunywe ejele isikhathi esingeqile eminyakeni emibili, noma athole kokubili leyo nhlawulo kanye nalokho kuboshwa[.], njengoba inkantolo inganquma ngemva kokubheka indlela nohlobo lwenani elingekho emthethweni lokuhlala kulowo mhlaba kanye nokuhlala kuleyo ndawo ngokungemthetho.

(3) **[Kuncike kulowo myalelo njengoba inkantolo inganquma ukuthi ulungile futhi ufanelekile ezimweni, inkantolo elahla noma yimuphi umuntu ngokwephula [lesi sigaba] isigatshana (1), kufanele iyale noma iyiphi imali noma iyiphi impahla etholwe ngaleyo mali, noma okunye ukucatshangelwa okutholwe yilowo muntu othathiwe, ukuba kudliwe, kanye naleyo mali eshiwo kanye nenzuzo yokudayiswa kwalezo zimpahla noma okunye ukucatshangelwa [kungase] kukhokhwe—__**

(a) kumuntu noma abantu okwamukelwe kubo imali, izimpahla noma okunye okucatshangelwayo ukuthi kwatholwa[,kanye];noma

(b) lapho lowo muntu noma labo bantu bengakwazi ukuhlonzwa ngendlela efanele, esiKhwameni Sikazwelonke Semali Engenayo noma, esimweni lapho umhlaba uphethwe noma ulawulwa umasipala, ku-akhawunti yokusebenza kamasipala efanele.

(4) **[Uma]Kuncike kulowo myalelo njengoba inkantolo inganquma ukuthi ulungile futhi kufanelekile ezimweni, uma kukhona imali eyamukelwe ngokuphambene nesigatshana (1), kodwa akukabanjwa**

noma kwenziwe kutholakale ngezinhlalo zokuthathwa, inkantolo elahla noma yimuphi umuntu ngokwephula lesi sigaba, [ingase]kufanele iyalele inani elifakazelwe ngokwenelisa inkantolo ukuthi litholwe yilowo muntu kanye nenzuzo yokudayisa kwanoma iyiphi impahla noma ukucatshangelwa okutholwe ngaleyo mali ukuba ikhokhwe.

(a) kumuntu noma abantu okwamukelwe kubo imali noma okunye ukucatshangelwayo[, kanye]; noma

(b) lapho [lowo] noma abantu abahlongozwe endimeni (a) bengeke bahlonishwe kahle, esiKhwameni Semali Kazwelonke noma, lapho umhlaba uphethwe noma ulawulwa ngumasipala, kwi-akhawunti yokusebenza kamasipala efanele, futhi lowo myalelo uba nomthelela futhi ungakhishwa kulowo muntu kube sengathi yisinqumo senkantolo esivuna lowo muntu noma abantu okwatholwa kubo imali noma okunye ukucatshangelwa koMbuso."

Ukuchitshiyelwa kwesigaba sesi-4 soMthetho we-19 ka-1998

3. Isigaba sesi-4 soMthetho omkhulu siyachitshiyelwa—

(a) nokufaka esikhundleni sesigatshana sesi (2) kulesi sigatshana esilandelayo:

“(2) Okungenani ezinsukwini eziyi-14 ngaphambi kokulalelwa kwecala elihlongozwe esigatshaneni soku-(1), umnikazi, uhlaka lukahulumeni noma umuntu ophethe kufanele anikeze isaziso esibhaliwe sokuqhutshwa ku-

(a) mhlali ngokungemthetho;

(b) umnyango ofanele wesifundazwe wokuhlaliswa kwabantu;kanye

(c) nomasipala ofanele."

(b) ngokufaka ngemva kwesigatshana (2) lesi sigatshana esilandelayo:

"(2A) Noma yiziphi izinhlaka zombuso ezihlongozwe esigatshaneni (2)(b) kanye no (c), nanoma yiluphi olunye uhlaka lombuso olunentshisekelo ezinqutsheni, kumele lujoyine noma luhlanganiswe njengengxenye kulezo zinqubo."

(c) ngokufaka esikhundleni sesigatshana sesi (3) lesi sigatshana esilandelayo:

p Ngokuya ngezihlinzeko [zesigatshana] izigatshana (2) no (2A), inqubo yokukhishwa kwezaziso kanye nokufakwa kwamaphepha ngokwalesi sigaba inqunywa yimithetho yenkantolo okukhulunywa ngayo."

(d) ngokususa esigatshaneni (5) kwegama elithi "kanye" ekupheleni kwendima (c) kanye nokushutheka ngemva kwaleyo ndima yendima elandelayo:

'(cA) beka usizo olufunwayo; futhi"

(e) ngokufaka esikhundleni sesigatshana (6) kulesi sigatshana esilandelayo:

"(6) Inkantolo ingase inikeze umyalelo wokukhishwa endaweni uma ibona ukuthi kulungile futhi kuyalingana ukwenza kanjalo, ngemva kokucubungula zonke izimo ezifanele, kuhlanganisa—

(a) izimo lapho umhlali ngokungemthetho ahleli ngaphansi kwazo;

(b) isikhathi sokuhlala;

(c) ukutholakala komhlali ongekho emthethweni kwenye indawo efanelekile yokuhlala noma umhlaba; futhi

(d) amalungelo nezidingo zabadala, izingane, abantu abano kukhubazeka kanye nemizi ephethwe abesifazane."

(f) ngokususa isigatshana sesi- (7)

(g) ngokufaka esikhundleni sesigatshana se-(10) lesi sigatshana esilandelayo:

"(10) (a) Inkantolo ekhipha umyalo wokukhishwa kwanoma yimuphi umuntu ngokwemibandela yalesi sigaba ingenza noma yimuphi umyalo ewubona ufanelekile futhi ulingana ngaphansi kwalezi zimo, kuhlanganisa nomyalelo wokuthi—

(i) ukugcinwa noma ukubhidlizwa kanye nokususwa kwentuthuko noma izakhiwo emhlabeni;

(ii) ukugcinwa, ukugadwa noma ukuvunwa kwanoma yisiphi isilimo esimile; futhi

(iii) ukukhokhwa kwesinxephezelo sanoma yikuphi ukuthuthukiswa, ukwakheka, izinto zokwakha noma izitshalo ezimile ezitholwe yiqembu elilodwa kwelinye.

(b) Ekwenzeni umyalelo ngokwendima (a), inkantolo kufanele ibheke zonke izici ezifanele, okuhlanganisa—

(i) noma ngabe ukuthuthukiswa kwenziwa, izakhiwo ezakhiwe noma izitshalo ezitshalwe ngemvume yomnikazi, uhlaka lukahulumeni noma umuntu ophethe;

(ii) noma ngabe ukuthuthukiswa, izakhiwo noma izitshalo ziyadingeka noma ziwusizo kulowo nalowo muntu odingekayo ukuze akhokhe isinxephezelo ngalokho kuthuthukiswa, izakhiwo noma izitshalo;

(iii) imiphumela kanye nokulunga kwemigomo nemibandela yanoma yisiphi isivumelwano phakathi kwezinhlangothi eziphathelene nesikweletu, noma ukukhishwa kwesibopho sezomthetho, sokunxeshezela noma ukunqunywa kwesinxephezelo;

(iv) ubunzima obubangelwa iqembu ngalinye; kanye

(v) nezimo ezihlongozwe esigatshaneni sesi-(6).

(c) Uma inkantolo yenza umyalelo

wokukhishwa endaweni, ohlanganisa nomyalelo wesinxephezelo,

umyalelo wokukhishwa angeke ulandelwe ngaphandle uma

isinxephezelo sesikhokhiwe noma siqinisekisiwe ngendlela eyanelisa

inkantolo.”; kanye

(h) nokwengeza ngemva kwesigatshana (12) sezigatshana ezilandelayo:

“(13) Inkantolo enikeza umyalelo wokuxoshwa ngemva

kokubheka ukuthi umhlaba usukhona yini noma ungenziwa

ngokufanelekile ngumasipala onegunya lokulawula, olunye uhlaka

lukahulumeni noma omunye umnikazi womhlaba ukuze kuthuthwe

umhlali ongekho emthethweni, njengoba kuhlongozwe esigatshaneni

sesi-(6)—

(a) angenza umyalelo, uma lowo masipala, olunye uhlaka lombuso

noma omunye umnikazi womhlaba ehlanganiswa ezinqubeni,

obeka njengombandela wesinqumo sokukhishwa kokuthi leyo

ndawo enye indawo noma umhlaba kufanele utholakale kumhlali

ongekho emthethweni; futhi

(b) kufanele, lapho kunengqondo ukwenza lokho futhi uma enye

indawo yokuhlala noma umhlaba ohlongozwe endimeni (a)

wenziwa utholakale okwesikhashana kuphela, isho isikhathi

lapho leyo ndawo yokuhlala noma umhlaba kufanele itholakale

kumhlali ongekho emthethweni ngumasipala, olunye uhlaka

lukahulumeni noma omunye umnikazi womhlaba.

(14) uma inkantolo inquma ukuthi umhlali ungumhlali ngokungemthetho, njengoba kuchazwe kulo Mthetho, inkantolo ingakhetha ukunikeza umyalelo wokuxoshwa ngaphandle kokudinga umasipala nanoma yiluphi uhlobo ukuba lunikeze enye indawo yokuhlala noma umhlaba.”.

Isichibiyelo sesigaba sesi-5 soMthetho we-19 ka-1998

4. Ngakho-ke isigaba sesi-5 soMthetho omkhulu siyachitshiyelwa—

- (a) ngokususa esigatshaneni soku- (1) segama elithi “kanye” ekupheleni kwendima
(b)

kanye nokufakwa ngemva kwendima (b) kwale ndima elandelayo:

“(bA) kulungile futhi kuyalingana ukunikeza umyalelo, kucatshangelwa izimo zomsebenzi ongekho emthethweni, okuhlanganisa ijubane, izinga kanye nemvamisa yalowo msebenzi; kanye”

- (b) nokufaka esikhundleni sesigatshana sesi (2) kulesi sigatshana esilandelayo:

“(2) Ngaphambi kokulalelwa kwezinqubo ezihlongozwe esigatshaneni soku-(1), umnikazi, uhlobo lukahulumeni noma umuntu ophethe kufanele anikeze isaziso esibhaliwe salezo zinqubo ku—

(a) mhlali ngokungemthetho;

(b) umnyango ofanele wesifundazwe wokuhlaliswa kwabantu;kanye

(c) nomasipala ofanele.”;

- (c) ngokufaka ngemva kwesigatshana sesi (2) kulezi zigatshana ezilandelayo:

“(2A) Noma yiziphi izinhlobo zombuso ezihlongozwe esigatshaneni sesi(2)(b) no (c), nanoma yiluphi olunye uhlobo lombuso

olunentshisekelo kwizinqubo, kumele lujoyine noma luhlanganiswe njengengxenye kuleyo nqubo.

(2B) Ngokuya ngezigtshana zesi-(2) kanye no (2A), inqubo yokuhanjiswa kwezaziso kanye nokugcwaliswa kwamaphepha ngokwalesi sigaba ibekwe yimithetho yenkantolo okukhulunywa ngayo.

(2C) Uma inkantolo yeneliseka ngokuthi umsebenzi ngeke wenziwa kalula noma ngokushesha ngendlela ehlinzekwe emithethweni yenkantolo, isevisi kufanele yenziwe ngendlela eqondiswe yinkantolo: Kuncike ekutheni inkantolo kufanele icabangele amalungelo omhlali ongekho emthethweni okuthola isaziso esanele kanye nokuvikela icala.”; futhi

- (d) ngokususa esigatshaneni sesi (3) kwegama elithi “kanye” ekupheleni kwendima (c) kanye nokushutheka ngemva kwendima (c) yale ndima elandelayo:

“(cA) thola usizo oludingekayo; futhi”.

Ukuchitshiyelwa kwesigaba sesi-6 soMthetho we-19 ka-1998

5. Ngakho-ke isigaba sesi-6 soMthetho omkhulu siyachitshiyelwa—

- (a) ngokufaka esikhundleni samagama alandelayo esigatshaneni (1) esikhundleni samagama andulela isigaba (a):

“(1) Uhlaka lukahulumeni lungafaka izinyathelo zokukhishwa komhlali ngokungemthetho emhlabeni [owela ngaphansi kwendawo engaphansi kwawo, ngaphandle kwalapho umhlali ongekho emthethweni engumboleki futhi umhlaba okukhulunywa ngawo

udayiswa ngokudayiswa kokubulawa ngokuhambisana nesikweletu] siphethe noma silawula, futhi inkantolo inganikeza lowo myalelo uma kufanelekile futhi kufaneleka ukwenza kanjalo, ngemva kokucubungula zonke izimo ezifanele, futhi uma—;

(b) ngokufaka esikhundleni sesigatshana sesi (3) lesi sigatshana esilandelayo:

p Ekunqumeni ukuthi ingabe kulungile futhi kuyalingana ukunikeza umyalelo wokukhishwa[, inkantolo kufanele ibheke—

(a) izimo lapho umhlali ongekho emthethweni ahlala ngaphansi kwazo futhi wakha isakhiwo noma into eyakhiwe;

(b) isikhathi umhlali ngokungemthetho nomndeni wakhe behlezi kulowo mhlaba okukhulunywa ngawo; futhi

(c) ukutholakala komhlali ongekho emthethweni kwenye indawo efanelekile yokuhlala noma umhlaba] ngokwesigatshana (1), isigaba sesi-4(6) siyasebenza, nezinguquko ezidingekayo.”; futhi

(c) ngokwengeza ngemva kwesigatshana sesi-(6) salesi sigatshana esilandelayo:

“(7) Isigaba sesi-4(10) siyasebenza, nezinguquko ezidingekayo, noma nini lapho kukhishwa umyalelo wokukhishwa ngokwalesi sigaba.”.

Isichibiyelo sesigaba sesi-7 soMthetho we-19 ka-1998

6. Ngakho-ke isigaba sesi-7 soMthetho omkhulu siyachitshiyelwa—

(a) ngokufaka esikhundleni sesigatshana (1) lesi sigatshana esilandelayo:

“(1) Uma umasipala ongaphansi kwendawo yokuphatha umhlaba okukhulunywa ngawo, engeyena umnikazi, uhlaka lukahulumeni noma umuntu ophethe umhlaba, umasipala [, ngokwemibandela enganquma] angaqoka umuntu oyedwa noma ngaphezulu abanolwazi ekuxazululeni izingxabano ukuze aqhube imihlangano yamaqembu anentshisekelo kanye nokuzama ukulamula nokuxazulula noma yikuphi ukungaboni ngaso linye ngokwalo Mthetho: Kuncike ekutheni amaqembu, nganoma yisiphi isikhathi, ngesivumelwano, angaqoka omunye umuntu ozophatha imihlangano noma axazulule ingxabano, ngaphansi kwemibandela umasipala ongayinquma.”; futhi

(b) nokufaka esikhundleni sesigatshana sesi (2) kulesi sigatshana esilandelayo:

“(2) Uma umasipala ongaphansi kwendawo yokuphatha umhlaba okukhulunywa ngawo, kungumnikazi, uhlaka lukahulumeni noma umuntu ophethe umhlaba okukhulunywa ngawo, ilungu loMkhandlu oPhethe eliqokwe uNdunankulu wesifundazwe esithintekayo, noma eliqokwe nguye, [kungase], ngaphansi kwemibandela angayinquma, aqoke umuntu oyedwa noma ngaphezulu abanolwazi ekuxazululeni izingxabano ukuze baphathe imihlangano yamaqembu anentshisekelo kanye nokuzama ukulamula nokuxazulula noma yikuphi ukungaboni ngaso linye ngokwalo Mthetho: Kuncike

ekutheni izinhlangothi, nganoma yisiphi isikhathi, ngokwesivumelwano, ziqoke omunye umuntu ozoqhuba imihlangano noma axazulule ingxabano, ngemibandela lelo lungu elishiwo loMkhandlu oPhethe elingayinquma.”.

Ukufakwa esikhundleni kwesihloko eside kuMthetho we-19 ka-1998

7. Isihloko eside esilandelayo sifakwa esikhundleni sesihloko eside soMthetho oyinhloko:

"UMTHETHO

Ukuhlinzekela ukuvinjelwa kokuxoshwa ngokungekho emthethweni; ukuhlinzekela ngezinqubo zokukhishwa kwabahlali ngokungemthetho; ukuklelisa izenzo ezithile njengezinqatshelwe nokudala amacala ahlobene nalezo zenzo ezingavunyelwe; ukuhlinzekela ngenani eliphezulu lenhlawulo ebekiwe ngokutholwa enecala lesenzo esinqatshelwe; ukuhlinzeka izinkantolo ngemibandela okufanele icutshungulwe lapho kunqunywa umyalo ofanele wokuxoshwa; ukuhlinzekela ngokuhlanganyela okuphoqelekile komnyango wesifundazwe wezokuhlaliswa kwabantu ofanele, umasipala ofanele, nanoma yiluphi olunye uhlaka lukahulumeni olunentshisekelo ekuqulweni kwecala; ukuhlinzekela ukulamula okuyimpoqo uma umasipala engumnikazi womhlaba; ukunikeza abahlali ngokungekho emthethweni ukuphathwa ngokulinganayo kanye nokuvikela umthetho; kanye nokuhlinzekela izindaba ezihambisana nakho.”

Short title

8. Lo Mthetho ubizwa ngokuthi Ukuvinjwa Kokukhishwa
Ngokungemthetho futhi Okungekho emthethweni
Ukuchitshiyelwa koMthetho wokusetshenziswa koMhlaba