

# IZIZA ZIKAMASIPALA

*Zifikelela njani  
nakunye nokuzisebenzisa!*



IZALISEKISWE YI: **LRC** (LEGAL RESOURCES CENTRE) KUNYE NE  
**TCOE** (TRUST FOR COMMUNITY OUTREACH AND EDUCATION)

JUNE 2010

## IZIQLATHO

1. Intshayelelo	1
2. Injongo yale ncwadana	2
3. Yintoni umhlaba wesisa kamasipala?	2
4. Imbali emfutshane yemihlaba yesisa kamasipala 'ekhoyo'	3
5. Eyon amicelimngeni mikhulu	4
6. Ungakanani umhlaba wesisa 'okhoyo' 'nomtsha' ?	5
7. Uxanduva loomasipala lophuhliso loMgaqo-siseko	6
8. Umhlaba wesisa kamasipala njengenxalenye yenkqubo kazwelonke yenguqu kwezemihlaba nophuhliso lwamaphandle – isicwangciso-nkqubo sikazwelonke somthetho nomgaqo-nkqubo	7
9. Imithetho yoomasipala ekufuneka ukuba iqwalaselwe	8
10. Indlela yokusebenza yeSebe	9
11. Iingxaki nokufundwe kwixesha elidluleyoo	10
12. Ziziphi ezona mfuno zethu zingxamisekileyo?	12
Izalathiso	13

Okuqulathwe yile ncwadana ikhuselwe lilungelo lokudalwe ngumbali. Abasebenzisi, kananjalo, bamemelelwa ekubeni bazisebenzise incukacha ezipapashwe apha ngokukhululeka okanye kwi websites ze **TCOE** e [www.tcoe.org.za](http://www.tcoe.org.za) kwakunye neye **LRC** kwa [www.lrc.org.za](http://www.lrc.org.za), ngaphantsi komqhathango yokunika ingqalelo i-manual njengomthombo.



# IZIZA ZIKAMASIPALA

*Zifikelela njani  
nakunye nakuzisebenzisa!*

## 1. Intshayelelo

Umhlaba wesisa kamasipala lusiphathela ithuba elilodwa lophuhliso lwamaphandle nohlaziyo kwezemhlaba nezolimo. Umthetho usixelela ukuba umhlaba wesisa kamasipala kufuneka ube negalelo kuhlaziyo kwezemhlaba apho uthi wenziwe ufumaneke ukuze usetyenziselwe ulimo ngabo babesakuya bengavumelekanga kwixa langaphambili ukuba bafumane imihlaba yeziza zikamasipala. Abahlali basezidolophini abahluphekileyo nabanqwenela ukuzibandakanya kwiinkuthalo zolimo kufuneka ngoko bacebe ukwenza amabango okufumana umhlaba wesisa kamasipala.

Kuyo yonke le ncwadana, sigxininisa “kubahlali basezidolophini” kuba imihlaba yesisa yeyokuba isetyenziswe kuphela, hayi ukuhlala kuyo. Umhlaba wokuzinza kwabantu nowobunikazi kubanelungelo lokuxhamla ngokwenguqu kwezemhlaba uchatshazelwa kwezinye iinkqubo (ezingundoqo) zonikezelo mihlaba zikarhulumente.

Kubalulekile ukuba nabani na ozibandakanya namaphulo emihlaba yesisa okanye abo bafuna

ukufumana umhlaba wesisa, bayazi imithetho engenayo neendlela ezizizo zokwenza ukuba kufumaneke nokulawulwa komhlaba kamasipala, ngakumbi umhlaba wesisa njengodidi olwahlukileyo nolulodwa lomhlaba kamasipala.

Kufuneka kuqatshelwe ukuba ukulandelwa koluntu kwebango lomhlaba ongowesisa kamasipala akulunganga, kuba phantsi kwemihlaba yesisa’ loo mhlaba ‘ngowoluntu’, kodwa amagunya awo aphehwe ngumasipala. Umasipala usebenza njengomlondolozo egameni labahlali bakhe.

Ngokufanayo, abantu benza impazamo ngokuthi umhlaba wesisa ‘okhoyo’ kufuneka unikezelwe ebantwini – kodwa akulunganga noko. Imihlaba yeziza ‘yanikezelwa’ ngokusesikweni emva komnyaka ka 1994 xa urhulumente wemimandla waba ngowentando yabaninzi ukuze aqalise ukukhathalela iimfuno zabantu BONKE.

Umhlaba wesisa ‘bubutyebi beentsapho’ yaye kufuneka ikhuselwe igcinelwe izizukulwane ezizayo.

## 2. Injongo yale ncwadana

Injongo yale ncwadana kukucacisa:

- ▶ Ukuba yintoni na imihlaba yesisa nokubaluleka kwenguqu kwezomhlaba namathuba ophuhliso lwamaphandle adalwa yiyo;
- ▶ Imbali yemihlaba yesisa ukuze kwendlalelwe ukuqondwa ngangcono:
  - Kwamalungelo akho emihlaba yesisa kamasipala;
  - Indlela onokukhusela ngayo imihlaba yesisa ekuthengisweni lukhulu ngokungekho sikweni nokuyibuyisa kwakhona ukuze kuxhamle uluntu; kunye
  - Namanyathelo anokuthathwa ngabahlali abahluphekileyo ukuze bafumane imihlaba yesisa kamasipala ukuncedisana nempilo yabo.
- ▶ Ukuba kubalulekile ukuba kuwo onke amaphulo emihlaba yesisa amalungelo abasebenzisi ngabanye bemihlaba yesisa makathathelwe ingqalelo, abelwe yaye anikwe inkxaso yolawulo ngoomasipala. Ukuba akunakwenzeka oku, sizakujongana neqondo lokuphanza kwamaphulo emihlaba yesisa

okufana nokwamanye amalinge ethu enguqu kwezemihlaba ukususela ngoka 1994.

- ▶ Ukuba izimali zikarhulumente ziyafumaneka kwiSebe lezoPhuhliso lwaMaphandle neNguqu kwezeMihlaba (Isebe) ukuze oomasipala:
  - Bafumane umhlaba wokumisela imihlaba yeziza emitsha okanye ukwandisa ezo sele zikho;
  - Baphucule iziseko zemihlaba yesisa;
  - Bacwangcise yaye bamilisele amaphulo emihlaba yesisa ukuze asebenzele ukuqinisekisa ekufikeleleni nakumalungelo akhuselekileyo abantu abahluphekileyo; kunye
  - Nokwenza uphicotho lokufumana “imbali yokuzuzwa”<sup>1</sup> kwemihlaba yeziza; ukubeka imiqathango yezibonelelo nemiqathango yeencwadi zetayitile zemihlaba ebakhuselayo; nokunikezela ngolwazi ukuze lusetyenziswe ngabahlali ekuqinisekiseni ukufikelela. Oomasipala abaninzi baqeshisa nje ngemihlaba yabo yeziza kumafama amhlophe arhwebayo.

<sup>1</sup> Jonga isahluko 25(3)(c) woMgaqo-siseko.

## 3. Yintoni umhlaba wesisa kamasipala?

Kule ncwadana sahlula phakathi kweendidi ezimbini zemihlaba yesisa kamasipala: Imihlaba yesisa kamasipala “**ekhoyo**” kunye nemihlaba yesisa kamasipala “**emitsha**”.

**Imihlaba yesisa ‘ekhoyo’ (kamasipala)** (ngokungafaniyo nalowo ubizwa ngokuthi “ngumhlaba wesisa wohlanga” oselugcinweni) ngumhlaba (esiqhelweni) owawunikelwe ngaphandle kwentlawulo koomasipala (abamhlophe) ngurhulumente ukuze bawusebenzise kuxhamle kuwo abahlali basezidolophini (inkoliso abamhlophe) kuwo ngeminyaka yoo 1800 nasemva koko. Icandelo elingembali (icandelo 4 ngezantsi) likuchazela banzi ngalo mba.

**Umhlaba wesisa ‘Omtsha’ (kamasipala)** ngumhlaba worhwebo ngolimo owawusakuba ‘ngowabamhlophe’ owawufunyanwa ngumasipala ‘njengesisa’ (ukususela ngowe 1994) ngokweNkqubo yeSebe yomhlaba weSisa.

Umhlaba wesisa kamasipala ufana nethala leencwadi likamasipala okanye iholo ledolophu likamasipala. Lifanelwe kukusoloko lihleli lifumaneka ukuze lisetyenziswe njengesiseko soluntu. Ngoku kufuneka siqinisekise ukuba abahlali basezidolophini, ngakumbi abo bahlali bangamahlwempu, bafumana ukusebenzisa yaye baxhamle kuyo YONKE imihlaba yeziza.

Iincwadi zetayitile zobunini yemihlaba yesisa ‘Emitsha’ naleyo ‘Ikhoyo’ zinemiqathango eyodwa nemiqathango yezibonelelo ethintela oomasipala ukuba banikezele (okanye balahlele) umhlaba wesisa ngokuwuthengisa, ukuphisa okanye ukutshintshisa ngawo. Kwakhona umasipala akavumelekanga ukuba avume ukubhalisa ebambisa (njengesiqinisekiso sembuyiselo-mali) ngomhlaba wesisa ukuze afumane imboleko.

Xa umhlaba obusakuba ngoworhwebo ngolimo kwabamhlophe unikezelwa kumasipala njengomhlaba ‘omtsha’ wesisa okanye xa Isebe lihlawulela ukuphuculwa kweziseko ezikumhlaba wesisa ‘omtsha’ okanye ‘okhoyo’, incwadi yetayitile yobunini yomhlaba omtsha okanye ophuculweyo iya kuchaza ukuba umasipala unyanzelekile enikezele ngaloo mhlaba kubahlali bakhe kuphela, kugxininiswa ngakumbi kwabangamahlwempu nabahlelekileyo, ngokuqinisekileyo nangokulinganayo.

Ukuba umasipala uthe waphula le miqathango, urhulumente wephondo okanye wesizwe angathatha amanyathelo okuxutha ubunini bomhlaba lowo.

Umhlaba wesisa ngoko ke ludidi olulodwa nolwahlukileyo lomhlaba kamasipala. Ngokamasipala, yaye ngaphezulu, kufuneka uhlale ungokamasipala ukuze usetyenziswe yaye kuxhamle abahlali bedolophu, ngonaphakade.

## 4. Imbali emfutshane yemihlaba yesisa kamasipala 'ekhoyo'

### • Phambi kweminyaka yoo 1950

Imbali yemihlaba yesisa kamasipala 'ekhoyo' yinxalenye yendumasi yokuxuthwa kwemihlaba lulawulo lobukholoniyali. Abangcucalazi abamhlophe baba ngabanini bomhlaba lo gama abantu abamnyama baba 'ngabangcucalazi'.

Ukusekwa kwemihlaba yesisa kususela kwiminyaka yoo 1800 xa iidolophu 'zabamhlophe' (ngakumbi kwiPhondo leKoloni eliDala) zasekwa ngokusesikweni. Kungelo xesha ke apho izixeko needolophu ezincinci zafumana imihlaba ezingqongileyo simahla, ziwunikwa ngurhulumente. Kwanikezelwa ubunini baloo mihlaba koomasipala, phantsi kwemiqathango imibini engundoqo:

- (1) Umasipala wayengenakuwunikezela loo mhlaba ngaphandle kokuba iRhuluneli (kamva uMongameli) anike imvume; kunye
- (2) Nokuba loo mhlaba unikezelwe kubahlali baloo dolophu njengesisa- umzekelo, ukuba kutye kuwo iinkabi zabo zeenkomo; ukugcina iimazi zabo zeenkomo zobisi neegusha zokuxhelwa; kwezinye iimeko ukuze abahlali bedolophu bakwazi ukuzilimela.

Noxa kunjalo, ngenxa yemithetho yangaphambili yocalu-calulo, imihlaba yesisa yoomasipala yayisetyenziselwa abamhlophe kuphela. Kwakukwiimeko ezizodwa ezithile apho abantu abantsundu babevunyelwa ukuba bayifumane le mihlaba. KwiPhondo leKoloni eliDala, idolophu nesixeko

ngasinye sasinokuba (yaye nangoku sisenokuba) nemigaqo ethile yemihlaba yesisa echaza amalungelo abahlali ekusetyenzisweni kwemihlaba yesisa. Kwiimeko ezininzi le migaqo ayisasebenzi – noxa oomasipala abaninzi bebeke ukrozo lemigaqo emitsha.

### • 1950-1994

Ukususela ngeminyaka yoo 1950 ukuya phambili, jengokuba abantu abamhlophe beya betyeba ngakumbi nobuxhaka-xhaka beteknoloji butshintsha (ukusuka kwiinkabi zeenkomo ukuya kwiimoto nokwaziswa kwezikhenkcezi), oomasipala 'abamhlophe' baqalisa ukuqeshisa ngemihlaba yesisa kumafama arhwebayo amhlophe ukuze benze ingeniso – endaweni yokuvumela abahlali abantsundu abahluphekileyo ukuba bawufumane.

Ngaphezulu – nakutshanje yaye okusaqhubekayo – oomasipala baqalise ukuthengisa imihlaba yesisa. Amaphephandaba azele zizityholo zentengiselwano yomhlaba enobuqhopholo apho amabhunga eedolophu athengisa imihlaba yoomasipala.

### • Emva ko 1994

Emva ko 1994, kwakube kwaziswe oomasipala bedemokrasi, bonke abahlali basezidolophini baba negunya lokufumana imihlaba yesisa yoomasipala. Kodwa ngelo xesha uninzi lwaloo mihlaba yesisa lwalusele luqeshiselwe amafama amhlophe arhwebayo; amanye enezivumelwano zoqeshiso ezinde ezineminyaka efikelela kwiminyaka engama 50 esekiweyo.



## 5. Eyona micelimngeni mikhulu

Kuyacaca kule mbali imfutshane ingentla, ukuba phambi kowe 1994 uluntu oluninzi lwaluvinjiwe ukuba lufumane imihlaba yeziza. Noxa ukususela ngoko ikhona inkqubela-phambili eyenziweyo zezinye iindawo zoluntu ukufumana imihlaba yezisa, imihlaba yezisa njengenyathelo lenguqu kwezemihlaba ijongene neengxaki ezininzi, njengezi zidweliswe ngezantsi:

- Oomasipala banikezela ngokungafanelekanga ngemihlaba yabo yesisa phantsi kwemiqathango yengqesho yomdibaniselwano<sup>2</sup> okanye ingqesho yomnye kwiqumrhu elisemthethweni, ngaphandle kokuthatha amanyathelo okuqinisekisa ukuba amalungelo abasebenzisi aqinisekiswa ngokuthi kuhlawulwe ngaphambili inxalenye yomrhumo ukuqinisekisa ukulungiswa nokugcinwa komhlaba lowo wesisa.

Isiphumo soku kukuba:

- oomasipala abaxhasi bagcine amalungelo abasebenzisi ababodwa bemihlaba yesisa;
  - apho abahlali bafumene lo mhlaba, ulingano ekuwufumaneni lusagoxekile kakubi;
  - zixhaphakile iimeko zoxhatshazo yaye abafazi nabantu abangamahlwempu bayalahlekelwa, kunye (iv) nokuhamba simahla nokutyiswa ngokungaphaya. Ezi ibe zezona ngxaki 'zimandla' kumaphulo amaninzi.
- Iziseko zisebuthathaka yaye akukho zinzame zenziwa ngoomasipala zokufumana izibonelelo zikarhulumente zokuziphucula;
  - Akwenziwanga luphando lusetyenziselwe ukuqhubela phambili ukufunyanwa komhlaba nokwakhiwa

kombutho wemihlaba yesisa ngolwazi malunga nembali yemihlaba yesisa namalungelo abahlali;

- Ngaphandle kwamaphulo amadlelo, akukho maphulo ophuhliso nezabelo zemihlaba okanye iifama ezincinci qalisiweyo; yaye
- Oomasipala basilele ekuyileni bamkele izicwangciso ezidibene nohlahlo-lwabiwo mali zolawulo lomhlaba oluzinzileyo ngokwezimali oluqhubayo njengexalenye yeZicwangciso zabo zoPhuhliso oluHlangeneyo (IDPs). Izicwangciso eziSekelwe kwiiNdawo nazo aziyamkelanga imihlaba yesisa jengethuba elililo lenguqu kwezemihlaba.<sup>3</sup>
- Umhlaba omtsha wesisa udla ngokuba kwiindawo ezikude kakhulu kwezo zihlala abantu, nto leyo yenza kube nzima kakhulu kubantu abangamahlwempu ukuwufumana.

Kufuneka sikhumbule ukuba noxa imihlaba yesisa yoomasipala ingakhange idlale ndima ingako kwinguqu yezemihlaba ezele ziingxaki yasemva kuka 1994, into yokuba umhlaba wesisa uhleli uphantsi kobumnini bomasipala ithetha ukuba xa amaphulo emihlaba yesisa engahambi kakuhle alungeka lula kunakwiimeko zonikezelo lwemihlaba okanye ubuyekezo apho imihlaba inikezelwe kubumnini babucala baBagcini okanye kuMbutho weMihlaba yoLuntu.<sup>4</sup>

<sup>2</sup> Kwiimeko ezinjalo, abaqeshi-ziza abazimileyo bafumaniswa benoxanduva ngokufanayo nangokuphinda-phindeneyo. Oku kutsho ukuba nawuphi na mqeshi-siza mnye angafunyanwa enoxanduva lokuhlawula isixa serente sisonke.

<sup>3</sup> Isahluko 153 soMgaqo-siseko.

<sup>4</sup> Ngenyanga ka May 2010 umphathiswa wathathela ingqalelo ukuba i 90% yeprojekti eziqajweyo eziyi 4000 kwihektare ezizinkulungwane eziyi 6 zomhlaba zizifumana zikwiigxaki ezimaxongo.



## 6. Ungakanani umhlaba wesisa 'okhoyo' kwakunye 'nomtsha'?

Asikwazi oku kuba lisebe, noxa bekukho izibhambathiso eziliqela alikhange liyilungise irejista yomhlaba karhulumente. Oomasipala nabo abazigcinanga iinkcukacha ezizizo, bengenzanga naluphicotho lwamihlaba (jonga kwiBhokisi 1 njengomzekelo).

### Ibhokisi 1: Umhlaba wesisa kuMasipala waseLangeberg eNtshona Koloni

Inkcukacha zobungakanani bomhlaba wesisa kuMasipala wase Langeberg azicacanga. NgokukaMsiapala waseLangeberg (owayesakuba nguMasipala weBreede River Winelands) Isicwangciso esiSekelwe kwiNdawo (ABP), lo masipala uneendawo ezimalunga nama 18 zomhlaba, ezisi 8 zisetyenziswa ngamafama akhasayo amnyama. Noxa kunjalo, i- ABP ayinikezeli ngolwazi malunga nelona nani leehektare anazo umasipala, okanye zingaphi na ihektare eziqeshiselwe amafama amhlophe arhwebayo ngenxa yokungabikho kwamaxwebhu afanelekileyo.

Kuphando olwenziwe ngabakwa TCOE neQonga lamalungelo oMhlaba iMawubuye amafama akhasayo akwazi ukwalatha iindawo zemihlaba yesisa ezaziwa njengezikaMasipala eziqeshiselwa amafama arhwebayo. Ngaphezulu balatha nomhlaba wesisa owawungokaMasipala ngaphambili, kodwa osele wathengiselwa abakhi ukuba bawusebenzisele ezinye iinjongo ezifana namabala egalufa. Le mihlaba iquka i-Hoek se Vlake eMcGregor neSilvertrand eRobertson.

NgokweSebe, inkqubo yomhlaba wesisa 'omtsha' ibinama 44% okanye 380 819 yeehektare zomhlaba owanikezelwayo ngo 2002. Ngelo xesha yayiyeyona inomhlaba omninzi onikezelweyo kuyo nayiphi na inkqubo yenguqu kwezemihlaba. Noxa kunjalo, kweli nani, ama 67% anikezelwa kufutshane nakwingingqi yoMntla Koloni apho umhlabba unokumelana nenani eliqingqiweyo lemfuyo elisisi 8 ngehektare kwicandelo eli 1 lemfuyo encinci yaye kuthengiswa ngama R250 ngehektare. Oku kungacacisa ngendlela ethile inkqubela enkulu ekufumanekeni komhlaba wesisa kwiidolophu ezilithoba ezincinane zoMasipala weSithili waseKaroo Hoogland (iboniswe kwiBhokisi 2), neyenzeke ngenxa yoququzelelo oluzinzileyo lwamafama akhasayo neMibutho engekho Phantsi kukaRhulumente (NGOs) ewaxhasayo.

Ngokungafaniyo, kuMasipala waseStellenbosch

(eNtshona Koloni) uninzi lwalo mhlaba luqeshiselwa amafama amhlophe arhwebayo yaye kuphela ngama 65 eehektare anikezelwe kumafama amnyama ali 13 asakhasayo. Lo masipala kukhangeleka ngathi unentwana yama 1700 eehektare zomhlaba wesisa – kodwa apha umhlaba unokusetyenziswa ngcono kulimo yaye unexabiso eliphezulu kwiimalike (umhlaba uthengiswa phakathi kwama R500 000 ukuya kwi R1 000 000 ngehektare).

### Ibhokisi 2: Inguqu kumhlaba wesisa kwabanye oomasipala boMntla Koloni

Phambi kuka 1994 Iphondo loMntla Koloni lalinama 314 371 eehektare zomhlaba wesisa 'okhoyo' . ISurplus People's Project (SPP) ibika kuba ngenxa yomsebenzi wayo weminyaka eli 10 wayo noququzelelo oluzinzileyo lwamafama amnyama ukufumana umhlaba wesisa kamasipala kuMasipala weSithili waseKaroo Hoogland. Uninzi lwemihlaba yesisa 'ekhoyo' nayo yonke imihlaba yesisa 'emitsha' kungokunje isetyenziswa ngamafama amnyama: ama 417 amafama 'akhasayo' (amadoda anabafazi) afumene ama 121 578 eehektare kuma 163 819 eehektare zomhlaba wesisa waloo masipala.

Xa usahlulwa-hlulwa umi ngolu hlobo lulandelayo ngomasipala wengingqi:

- Umasipala waseKaroo Hoogland (iSutherland; Fraserburg neWilliston) zinama 53 540 eehektare zomhlaba wesisa uwonke (ama 25 172 eehektare 'okhoyo' kunye nama 28 368. 3455 eehektare zomhlaba wesisa 'omtsha'). Kulo mhlaba ama 29 000 eehektare asetyenziswa ngamafama amnyama lo gama ama 24 000 ingamafama amhlophe.
- Umasipala waseHantam (iCalvinia; Brandvlei, Loeriesfontein neNieuwoudtville) zinama 70 701 eehektare zomhlaba wesisa uwonke (ama 41 338 eehektare 'okhoyo' nama 30 363 eehektare 'omtsha'). Ngaphezu kwama 60 000 eehektare zomhlaba wesisa asetyenziswa ngamafama amnyama.
- Umasipala waseKareeberg (iCarnavon ne Van Wyksvlei) zineehektare ezingama 39 578 zomhlaba wesisa uwonke (ama 20 043 eehektare akhoyo kunye nama 19 535 eehektare omtsha). Kulo mhlaba, ama 32 578 asetyenziswa ngamafama amnyama kuze ama 7 000 eehektare asetyenziswe ngamafama amhlophe arhwebayo.

## 7. Uxanduva loomasipala lophuhliso loMgaqo-siseko

Phantsi kobandlululo, 'oomasipala' babelungiselelwa ukuba bakhathalele iimfuno 'zabamhlophe', lo gama ezinye iindidi zolawulo lwemimandla zoyisakala ngokupheleleyo ukuhlangabezana neemfuno ezingundoqo zoninzi lwabemi boMzantsi Afrika.<sup>5</sup> Ukususela oko kwemiselwa oomasipala abaqukayo njengohlobo olulodwa lolawulo lwemimandla, oomasipala ngoku banoxanduva olutsha ngokoMgaqo-siseko loku:<sup>6</sup>

- Thatha inxaxheba kwiinkqubo zikazwelonke zophuhliso (umz: inguqu kwezemihlaba);
- Ukubeka phambili iimfuno ezingundoqo zoluntu; kunye
- Nokunyusa uphuhliso ngokwentlalo nangoqoqosho kuluntu.

<sup>5</sup> Ukusuka kwingabula zigcawu ukuya kuMthetho weeNkqubo.  
<sup>6</sup> Ss 152 & 153 woMgaqo-siseko.

Noxa umgaqo-siseko wethu ungabanyanzelisi oomasipala ukuba baqalise yaye bemisele inguqu kwezemihlaba, oomasipla banyanzelekile ukuba bathathe inxaxheba kwiinkqubo zephondo nezikazwelonke zenguqu kwezemihlaba ukufezekisa iinjongo zoomasipala zophuhliso. Oomasipala ngoko banendima ebalulekileyo abayidlalayo kuphuhliso lwamaphandle nenguqu kwezemihlaba ngokuqinisekisa ukuba abahlali basezidolophini abamnyama abahluphekileyo bayaxhamla kwimihlaba yesisa yoomasipala ukuze bavelise ukutya batyise nemfuyo yabo.

Enye yeendlela umasipala angafezekisa ngayo uxanduva lwakhe aluthweswe ngumgaqo-siseko lophuhliso kukufaka isicelo sesibonelelo kwiSebe loPhuhliso lwaMaphandle neNguqu kwezeMihlaba ukuze akwazi ukubonelela abahlali bakhe ngemihlaba yesisa nokuphuhlisa iziseko kumhlaba wesisa.





## 8. Umhlaba wesisa kamasipala njengxenye yenkqubo kazwelonke yenguqu kwezemhlaba nophuhliso lwamaphandle – isicwangciso-nkqubo sikazwelonke somthetho nomgaqo-nkqubo

Izibonelelo ezikhoyo zomthetho ezivumela Isebe ukuba linikezele ngezibonelelo koomasipala kwimhlaba yesisa yoomasipala ziqulethwe:

- Iphepha leNgcaciso yoMgaqo-nkqubo (Epreli 1997) kunye
- NoMthetho woBonelelo ngoMhlaba noNcedo 126 ka 1993 (walungiswa njengoMthetho 58 ka 2008) - (jonga Ibhokisi 3 ngeenkukacha)

Izibonelelo ezikhoyo zineda oomasipala ukuba:

- Bafumane umhlaba** ukuze babe nomhlaba wesisa 'omtsha' okanye bandise umhlaba wesisa 'okhoyo';
- Ukumisela nokuphucula **iziseko** kwimhlaba emitsha yesisa okanye kuleyo ikhoyo;
- Ukulungisa **isicwangciso** sokumilisele inxalenye yephulo lenguqu kumhlaba wesisa – kuquka nendlela umhlaba oza kuphuhliswa ulawulwe ngayo; kunye.
- Nokwenza **uphicotho lomhlaba** oluphangaleleyo ukuqinisekisa ukuba ulawulo lwalo mhlaba lubekwe kwinqanaba lomthetho nelolawulo elifanelekileyo.

**Ibhokisi 3: Umgaqo-nkqubo namasoloty omthetho eSebe okwenza kufumaneke imali yezibonelelo zemhlaba yesisa yoomasipala koomasipala:**



**a) Iphepha lengcaciso yomgaqo-nkqubo wezeMhlaba (Epreli 1997)** licacisa indima enokudlalwa ngoomasipala kwinguqu kwezemhlaba ngokwenza ukuba abantu abamnyama abahluphekileyo 'bafumane umhlaba wamadlelo nowokulima ukuncedisa imivuzo yabo nokunyusa ukuqinisekiswa kokubakho kokutya emakhayeni abo'.

Kweli Phepha leNgcaciso urhulumente omtsha wentando yabaninzi wazibophelela ekuboneleleni ngezimali zenkxaso koomasipala ukuze bafumane umhlaba othe chatha njengomhlaba wesisa 'omtsha' nokuphuhlisa iziseko kokubini kwimhlaba yesisa 'ekhoyo' 'nemitsha'.<sup>7</sup> Eli Phepha leNgcaciso likwachaphazele ukuba Isebe lingakuqwalasela ukunceda oomasipala ekurhoxiseni iingqesho zexesha elide ukuze kukhululeke umhlaba wesisa uye kwabahluphekileyo.

Kananjalo Isebe lamkele ngokusesikweni umgaqo-nkqubo wemhlaba yesisa eliwumiliseleyo. **ABABANINZANGA ABANTU ABANOLWAZI NGALO MBA!**

**b) Umthetho woBonelelo ngoMhlaba noNcedo 126 ka 1993** (walungiswa njengoMthetho 58 ka 2008) ubonelela ngesiseko sezomthetho koomasipala ukuba bathobele Isiqendu 25 soMgaqo-siseko. Isiqendu 25(5) sichaza ukuba:

*“Urhulumente kufuneka athathe amanyathelo omthetho namanye afanelekileyo, ngokwezibonelelo anazo, ukudala iimeko ezenza ukuba abemi bafumane umhlaba ngokulinganayo”.*

Isiqendu 10 soMthetho 126 ka 1993 sigunyazisa uMphathiswa weSebe ukuba abonelele ngemali koomasipala ukuze bafumane, balungise, bacwangcise, baphuhlise okanye baphucule (nangokweziseko) imihlaba yoomasipala. Esi Siqendu sikwachaza nokuba makubonelelwe nemali yokuxhobisa, uphuhliso lwezakhono, uqeqesho noxhotyiso.

7 Jonga Iphepha leNgcaciso yoMgaqo-nkqubo: Umhlathi 3.16 (iph 28) Ukusetyenziswa komhlaba wesisa yoomasipala; umhlathi 4.12 (iph. 50) Umhlaba wesisa woRhulumente woMmandla; umhlathi 4.24 (iph. 73) Isibonelelo sokuFunyanwa koMhlaba weSisa wooMasipala; kunye, nomhlathi 5.11 (iph. 89) Ulawulo loMhlaba kaRhulumente: Umhlaba weGunyabantu loMmandla.

## 9. Imithetho yoomasipala ekufuneka ukuba iqwalaselwe

Amagosa oomasipala asoloko engazi ukuba ikhansile kamasipala ingawukhupha umhlaba wesisa ngomrhumo/wokulungisa. Abantu abacela ukunikwa le mhlaba yesisa ngoomasipala basoloko bedibana nala magosa abaxelela ukuba umhlaba wesisa ungaqeshiswa kuphela ngemali yengqesho kwiimalike yaye ukhutshwa ngenkqubo yethenda. Oku kuvimba abantu abahluphekileyo ekufumaneni umhlaba.

Into yokuba umhlaba ube wanikezelwa kuMasipala ngaphandle kwentlawulo (njengoko uMgaqo-siseko usitsho, “imbali yokuwufumana”<sup>8</sup>) nenkongo yokuba loo mhlaba ufumaneke okanye uphuhlise ngokweziseko (“kwinguqu yezemhlaba’ nokusemdleni woluntu”) inyanzelisa umasipala ukuba nangabizi imali yengqesho ekwiimalike, kodwa awenze ufumaneke ngendlela “ezinzileyo ngokwezimali”, njengoko kuchazwa kuMthetho weeNkqubo.

Le mithetho ilandelayo iyangena kwakuvula iimeko ezinje:

- a) Umthetho weeNkqubo zooMasipala 32 ka 2000, ngokukodwa, malunga: kunye
- b) NoMthetho woLawulo lweZimali zooMasipala 65 ka 2003 (MFMA) (jonga kwiBhokisi 4 ngeenkukacha):

<sup>8</sup> Bona iSahluko 25(3)(b) soMgaqo-siseko.



### Ibhokisi 4: Imithetho ebalulekileyo yoomasipala esebenza kwinqesho nolawulo lwemhlaba yoomasipala nemihlaba yesisa:

#### a) Umthetho weeNkqubo zooMasipala 32 ka 2000, ngokukodwa, malunga:

- Nemirhumo - iziqendu 73 ukuya 75A nengcaciso yesiqendu 1 ‘yozinzo ngokwezimali’, ukongezelela kwisikhokelo somgaqo-nkqubo kamasipala weMirhumo;
- Izicwangcciso zoPhuhliso eziHlangeneyo (IDPs) – iziqendu 23 ukuya 37 kunye nolona hlelo lwakutshanje lweIDP kamasipala;

#### b) Umthetho woLawulo lweZimali zooMasipala 65 ka 2003 (MFMA), ngokukodwa:

- Imigaqo yooMasipala yoBonelelo ngeeMfuno eyemiselwa nguMphathiswa wezeZimali ngokwe- MFMA.: Apha undoqo sisiqendu 40(2)(c)(i) esichaza ukuba: “impahla engenakushenxiswa iqeshiswa ngentlawulo ekwinqanaba leemalike ngaphandle kokuba umdla woluntu okanye imeko yabangamahlwempu inyanzelisa ngandlela yimbi”;
- Umgqaqo-nkqubo woBonelelo ngeeMfuno wooMasipala beMimandla ngokwesiqendu 111 we- MFMA; kunye
- noLawulo lwaMatyala noQokelelo lweNtlawulo iziqendu 95 ukuya 104 ze- MFMA noxwebhu lomgaqo-nkqubo lomasipala wommandla kulo mba.

Abalawuli booMasipala kufuneka bakhunjuzwe ukuba banyanzelekile ngokomgaqo-siseko ukuba balawule izakhiwo eziqeshiswayo zoomasipala, iindawo zokumisa izithuthi, amadama okuqubha, amathala eencwadi namaholo ezixeko. Bakwanyanzelekile ukuba balawule ngendlela eyiyo imihlaba yesisa.

## 10. Indlela yokusebenza yeSebe

Isebe lixakeke kukugqibezela amaphulo alo oPhuhliso lwaMaphandle neNguqu kwezeMihlaba. Singatsho ngokulula ukuthi aliya kuyeka ukuxhasa inkqubo yemihlaba yesisa – nenxa yezizathu ezibini: kuba kukho ebuncinane isigidi seehektare zomhlaba wesisa 'okhoyo' onokufumaneka ukuze usetyenziswe ukufezekisa umilisele lweziqendu 25(5) soMgaqo-siseko; kanti nobuncinane bama 500 000 eehektare ezinikezelwe njengomhlaba wesisa 'omtsha'. Ukuba liyayeka ukuxhasa le nkqubo, uluntu kufuneka ludibane luququzelele ukuvakalisa amazwi alo.

Kwiimeko apho Isebe liceliweyo ukuba lincede, lisebenzise le ndlela ilandelayo ngokomthetho nomgaqo-nkqubo okhoyo:

- Umasipala ofaka isicelo soncedo kufuneka enze isibhambathiso sokuba loo mhlaba (ufunyenweyo okanye uphuhlisiweyo ngokweziseko) uza kunikwa abemi bakhe ngendlela ekhuselekileyo nelinganayo kugxininiswa kubahlali abahluphekileyo nabangathathi ntweni;
- Umasipala kufuneka abhale isicwangciso sophuhliso esibonakalisa indlela eli phulo liza kuqwalasela ngayo iimfuno linyuse uphuhliso ngokwentlalo noqoqosho kuluntu.

Isicwangciso sophuhliso kufuneka:

- Sibonakalise indlela oza kusetyenziswa ngayo umhlaba, oza kuphuhliswa ulawulwe ngayo ixesha elithile;
- Senze uthelekelelo lodidi lweendleko zeemfuno zeziseko nengcaciso yendlela oza kusetyenziswa ugcinwe ngayo;
- Sixoxe ngokuzinza kweendlela ezahlukeneyo zokusetyenziswa komhlaba (njengeendawo ezinkcenkceshelwayo, amadlelo, njl.njl.) okuthathela ingqalelo ukuba umhlaba uya kunikezelwa ngomrhumo wokuwugcina;
- Sicacise iinkqubo nemiqathango eyakulandelwa ukuqinisekisa ukuba amalungelo abantu okusebenzisa umhlaba, amanzi nezinye izibonelelo ayakhuselwa;
- Sibonelele ngenkqubo umhlaba oza kunikezelwa ngayo ulawulwe ngokuhamba kwexesha ukuqinisekisa ulinganano ekufikeleleni kumhlaba kwabasebenzisi bawo ngabanye;
- Sicacise inkxaso yolawulo ekuza kubonelelwa ngayo ngumasipala ekufikeleleni kumhlaba ukuqinisekisa unyanzeliso lwezivumelwano

nokhuseleko lwamalungelo abasebenzisi bomhlaba ngabanye; yaye

- Siquke izivumelwano zethutyana ukumilisele amalungelo abasebenzisi bomhlaba ngabanye;

- Isicelo sikaMasipala kufuneka sikhathshwe yinkcazo ngolwazi ngomhlaba wakhe okhoyo wokulima nezicwangciso umasipala azisebenzisayo ekuwunikezeleni.
- Ukuba uMasipala wenza isicelo sokufumana isibonelelelo somhlaba othe chatha, umasipala kufuneka avume ukwenza uphicotho oluphangaleleyo lomhlaba wakhe wokulima ukuqinisekisa ukuba ulawulo lwakhe lomhlaba luggqibelele ngokomthetho nolawulo.

Ukuba kunikezelwe isiqephu esitsha somhlaba kumasipala njengomhlaba wesisa, okanye kuphuculwe ngokweziseko isiqephu somhlaba wesisa okhoyo okanye omtsha (umzekelo xa Isebe lincedisela ekufunyanweni kwamalungelo amanzi okunkcenkceshela neemitha zamanzi, njl.njl.) Isebe liya kunyanzelisa ukuba kubhaliswe Umqathango kaZwelonke woBonelelelo ngeZiseko kuMhlaba weSisa kwitayitile yobumnini ukuqinisekisa ukuba umhlaba ngenene usetyenziswa njengomhlaba wesisa ingezizo ezinye iinjongo. Imiqathango yetayitile yobumnini iya kuchaza ukuba umasipala:

- Akanakunikezela ngalo mhlaba ngesivumelwano sentengiso, ukutshintshisa okanye ukuphisa ngomhlaba okanye abhale isivumelwano sokubambisa (njengesiqinisekiso sembuyiselo-mali) ngomhlaba ngaphandle kwemvume ebhaliweyo yoMphathiswa woPhuhliso lwaMaphandle neNguqu kwezeMihlaba;
- Uya kunikezela ngomhlaba kubemi bakhe ngendlela eqinisekisiweyo nolingano kugxininiswa kumalungu oluntu angamahlwempu nangathathi ntweni;
- Uyavuma ukuba uMphathiswa (kazwelonke) angawuthatha lo mhlaba kuMasipala ngeenjongo zokwenza inguqu kwezemihlaba ngaphandle kokuhlulwa imbuyekezo, ukuba umasipala uyoyisakala ukuhlangabezana nemiqathango kazwelonke emiselwe yitayitile.

Njengoko kuchaziwe ukuba Isebe linako nokuhlululela iinkonzo zocwangciso lomilisele lwephulo.

## 11. Iingxaki nokufundwe kwixesha elidluleyo

- Oomasipala abaninzi balile ukunceda abemi basezidolophini abangamahlwempu ekufumaneni imihlaba yeziza yoomasipala – oku lulaphulo loxanduva loomasipala nemiqathango yezibonelelo ebekunikezelwa phantsi kwayo imihlaba yesisa kooMasipala ngaphambili.
- Imihlaba emininzi yesisa isesezandleni zamafama amhlophe arhwebayo okanye kuqeshiswa ngayo kumaqela abucala – yaye kumaxa amaninzi ngaphantsi kwamaxabiso akwiimalike – kumabala egalufa nophuhliso lwabucala. Akwenziwanga luphando lusetyenziswe kwiintshukumo zasekuhlaleni ukuguqula imeko ngolwazi ngembali yemihlaba yesisa namalungelo abemi.
- Kuthengwa iifama ezintsha zemihlaba yeziza ezikude kakhulu needolophu, nto leyo yenza ukuba kube nzima kubantu abangamahlwempu ukufikelela kuzo;
- Kwiimeko ezininzi imihlaba yeziza inikwa amafama amnyama akhasayo ngengqesho yethuba elifutshane (umz: iminyaka emithathu nesiqingatha kuMasipala waseLangeberg). Njengoko kucaca ngezantsi, le ngqesho kufuneka iyekwe ukuze abasebenzisi bawufumane umhlaba amaxesha andisiweyo, xa beyifezekisa imiqathango. Isiphumo esibi sengqesho yethuba elifutshane kukuba abasebenzisi abakulungeli ukuxhamla kwiNkqubo yeNkxaso ePhangaleleyo yezoLimo (CASP). Ukuze ubani alungele ukuxhamla kwi-CASP amalungelo akhe omhlaba kufuneka abe ngaphezu kweminyaka emihlanu ubuncinane.
- Oomasipala bayoyisakala ukubeka bamilisele izicwangciso ezihambelana nohlahlo-lwabiwo mali lwabo ukuqinisekisa ukuqhubeka kolawulo lwemihlaba yesisa oluzinzileyo ngokwezimali njengenxalenye yee- IDP zabo. Neziwangciso eziSekelwe kwiiNgingqi aziwukhuthazi umhlaba wesisa njengethuba elifanelekileyo lenguqu kwezemihlaba (jonga Ibhokisi 5).

### Ibhokisi 5: Ukusilela koomasipala ukuba negalelo kumathuba enguqu kwezemihlaba ngemihlaba yesisa yoomasipala (ingxelo yophando)

Ngonyaka ka 2007/2008 iTCOE ibambisene neQonga laMalungelo Omhlaba iMawubuye benza uphando ngeemfuno zomhlaba kuMasipala waseLangeberg (owayesakuba yi- Breede River Winelands) kubahlali abangamahlwempu nabangenamihlaba nabavelisi abakhasayo bokutya namafama angabafuyi ahlala kwiidolophu iBonnievale, McGregor, Ashton, Robertson neMontagu. Ngethuba lendibano yokubonisana abathatha inxaxheba bathi thaca imizekelo emine yokuba nomhlaba nokuvelisa ukutya:

- Umzekelo A wawuchaphazela iziza ezimalunga nehektare, izitiya zokutya (neentengiso zamaxa athile) ezilinywa ngabantu ngabanye neentsapho, kunye nokufunyanwa komhlaba wesisa ongamadlelo. Lo mzekelo ubuchaphazela ama 35% uwonke umhlaba ojongelwe ukunikezelwa.
- Umzekelo B wawuchaphazela 'iifama ezincinci' eziphakathi kwesi 2 nesi 5 seehektare, 'iifama ezincinci zeentsapho' okanye ookopolotyeni. Lo mzekelo ubuchaphazela ama 25% uwonke umhlaba ojongelwe ukunikezelwa.
- Umzekelo C wawuchaphazela iifama ezincinci ukuya kweziphakathi eziphakathi kwesi 5 nama 20 eehektare, eziza kusetyenziswa ziintsapho okanye ookopolotyeni. Lo mzekelo ubuchaphazela ama 25% uwonke umhlaba ojongelwe ukunikezelwa.
- Umzekelo D yayingowamafama arhweba kwiifama ezingama 20 eehektare nangaphezulu, yaye beziya kuqesha abasebenzi. Lo mzekelo ubuchaphazela i 15% uwonke umhlaba ojongelwe ukunikezelwa.

Noxa abathathinxaxheba bebone imfuno emandla yomhlaba, uMasipala akakuthathelanga ngqalelo oku akubandakanye nakwi- IDP okanye Ucwangciso luSekelwe kwiNgingqi lwakhe.

- Oomasipala (ababemhlophe) ngokwembali babebandakanyeka ngqo kulawulo lwemihlaba yesisa uuqinisekisa ukusetyenziswa kwayo ngokuzinzileyo nokukhusela amalungelo abasebenzisi ngokwemiqathango kamasipala yamadlelo, kodwa oomasipalabethu abatsha bedemokrasi abavumi ukunika inkxaso yolawulo kubasebenzisi abatsha abamnyama bemihlaba yesisa.
  - Phantse kuzo zonke oomasipala abatsha bafuna kuphela: (i) ukuqeshisa ngesiqwenga somhlaba wesisa kwiqela lamafama apho amalungu kufuneka amelane okanye (ii) ukuqeshisa isiqwenga somhlaba kumbutho wamafama uze umbutho uqokelele intlawulo yengqesho uyinike umasipala (nto leyo ingafane yenzeke). Oomasipala bakwenza oku kuba bengafuni ukubandakanyeka kwinkqubo yolawulo lwamalungelo omntu ngamnye. Oku kwakusenzelwa abantu abamnyama. Umasipala ufuna ukunikezela isiqwenga somhlaba ngaphandle kohlolo nemiqathango aze abuye umva athi: *“Jongani ukuba kwenzeka ntoni xa kunikwa abantu abahluphekileyo umhlaba!”* Ezi zicwangciso ziphembelela ukuyekela nokuxhaphaza.
  - Isiphumo soku kuqeshiselwa kwamaqela kukuba amalungelo abafuyi abakumhlaba wesisa akakhuselwa yaye angaxhatshazwa.
  - Eminye imihlaba yesisa inikezelwe kokubini kumafama alimela ukuzityisa ‘nakhasayo’ arhwebayo nto leyo ibanga ukungquzulana okukhulu kwemidla neengxaki ngaphakathi kumaphulo emihlaba yesisa njengoko iimfuno neminqweno yamaqela yahlukene. Amalungelo amalungu amaphulo emihlaba yesisa akakhuselwanga yaye oomasipala abaluxhasi ulawulo lwamalungelo. Ngoko ulingano kunikezelo lugwenxa yaye luyaxhaphaza yaye amadlelo ayaxhaphazeka kumaphulo amaninzi. Kwixesha eliphakathi amaphulo amaninzi emihlaba yesisa aza kuphanza ngaphandle kokuba kokuba amalungelo abasebenzisi bemihlaba yesisa anikwa inkxaso yolawulo lwamalungelo ngoomasipala.
  - Kwimihlaba ethile yesisa kuye kwenzeka ukuba bonke abafuyi babe ngamalungu ento ebizwa ngokuba ‘liqela lamafama akhasayo’ apho ilungu ngalinye kufuneka lihlawulle imali esisigxina engama R72 ngenyanga, nokuba lineebhokwe okanye iigusha ezingaphi na. Umzekelo, umhlokokazi oneebhokhwe ezi 6, uhlawula iR12 ngebhokhwe ngenyanga aze umnini tekisi onama 288 eegusha
- ahlawule iR0.25c kuphela ngegusha ngenyanga. Oku kuthetha ukuba umhlokokazi uxhasa ngemali ukusebenzisa kukanotekisi umhlaba.
- Kwezinye iimeko amafama anezinto ‘akhasayo’ arhwebayo okanye abantu abanenye ingeniso, afumene amalungelo awodwa okusebenzisa umhlaba wesisa.
  - Amaphulo emihlaba yesisa oyisakele ukubandakanya abantu abangamahlwempu nabafazi. Amafama angamahlwempu akanalulawulo lululo yaye ngoko ke “afumileyo” ngawo amaninzi kumaziko olawulo. La maphulo ngamaphulo aphanzileyo enguqu kwezemihlaba kuba (ngokwamazwi eSiqendu 25(5) soMgaqo-siseko) *akukho manyathelo amthetho okanye amanye awathathwayo ukunyanzelisa iieko ezibanga ukuba abahlali bafumane umhlaba ngokulinganayo.*
  - Akukhange kubekho nkxaso emva kokuhlaliswa, okanye ibe buthathaka. Iziseko zisebuthathaka yaye akukho mizamo yenziwayo ukufumana izibonelelo zikarhulumente ukuyiphucula – noxa lsebe belisoloko linesi sibonelelo kwincwadi yalo yomgaqo-nkqubo waso ukususela ngo 1997.
  - Amaphulo emihlaba yeziza ikakhulu ngamaphulo amadlelo angababandakanyiyo abafazi ngobukhulu becala njengoko imfuyo ilawulwa ngamadoda.
  - Akukho maphulo amafama akhasayo asekiweyo kwimihlaba yesisa.
  - Akukho zimeko apho “imbali yokufunyanwa” komhlaba wesisa yakhe yaphandwa yabhalwa ukubeka elubala iimeko ekwanikezelwa phantsi kwazo imihlaba simahla, ookanye iimeko zetayitile ezinyanzelisa oomasipala ukuba balawule yaye banikezele ngemihlaba yesisa kubahlali babo.
  - Kumaxa amaninzi iikhansile ezibekwe ngedemokrasi zinomdla kakhulu ekuthengiseni okanye ekuqeshiseni imihlaba yabo yesisa ‘ekhoyo’ kwizivumelwano zorhwebo.
  - Kukho ukunqongophala koyondelelwano nemigaqo-nkqubo ehlangeneyo phakathi kwamasebe ahlukeneyo karhulumente ekufuneka achaphazeleke ukuqinisekisa inkxaso kumafama akhasayo nalimela ukuzityisa (umz: amasebe ajongene nophuhliso lwamaphandle, amanzi, ulimo, njll.njl).
- Ngokufutshane, kumoshwe yaye kusaqhubeka ukumoshwa kwethuba elihle lokumiliselwa kokufunyanwa komhlaba ngokulinganayo ukuze kuxhamle abangamahlwempu.

## 12. Ziziphi ezona mfuno zethu zingxamisekileyo?

Umthetho uthi imihlaba yesisa yoomasipala mayinikezelwe kubantu abangamahlwempu ukuze bayisebenzisele ukulima. **Amafama akhasayo nalawo alimela ukuzityisa nabantu abangenamihlaba** kufuneka badibane ukukhusela iimfuno zabo ngemihlaba yesisa benze la mabango alandelayo koomasipala babo:

1) Babange ulwazi nokuba selubala ngemihlaba yesisa yoomasipala:

- Iphi imihlaba yesisa yoomasipala?
- Ngoobani abasebenzisa le mihlaba yesisa?
- Ithini imiqathango elawula ingqesho ekhoyo yaye kwangenwa nini kule ngqesho? Kufuneka kube selubala ukungena kwizivumelwano ezingokunikwa kwamathuba okusebenzisa imihlaba yesisa, kuquka ukufikelela koluntu kumaxwebhu ezivumelwano neenkukacha zentlawulo;

2) Ukufunyanwa kwemihlaba ethe chatha yesisa kamasipala:

- Xa kukho ukunqongophala komhlaba wesisa, oomasipala kufuneka bongeze imihlaba 'ekhoyo' yesisa, bafumane imihlaba yesisa 'emitsha' ngenkqubo yeSebe yezibonelelo zemihlaba yesisa; yaye ukuba kuyenzeka, babele ngokutsha eminye imihlaba kamasipala ukuba ibe yeyesisa;
- Xa kunqongophele iziseko, oomasipala kufuneka bafake izicelo zezibonelelo zokuphuhlisa iziseko kwimihlaba yesisa kwiSebe;
- Kufuneka kubekho ukuba selubala ngezicwangciso zoomasipala namasebe nohlahlo-lwabiwo mali lokufumana nokupphuchula iziseko kwimihlaba ekhoyo nemitsha yesisa;

3) Xa abantu abangamahlwempu befumana imihlaba yesisa:

- Makupheliswe iimvumelwano zokuqeshisa kufakwe endaweni yazo izivumelwano phakathi koomasipala nabantu abasebenzisa imihlaba

ukuqinisekisa ukhuseleko lokuqesha kwabo.

Njengoko kuchazwe ngentla iimvumelwano zokuqesha ziyaxhaphaza – zizezeshisa eliqingqiweyo kuphela yaye akukho malungiselelo olandelelwano nokhuseleko lwamalungelo eentsapho. Umntu makavunyelwe ukusebenzisa umhlaba kangangoko esebenza ngokwemiqathango yokusetyenziswa komhlaba, esebenzisa umhlaba ngendlela enemveliso yaye egcine imigaqo yokuhlawulela ukulungiswa (okanye alungise ngokwakhe) ahlawule umrhumo wolawulo.

- Amalungelo abantu abasebenzisa umhlaba makacaciswe kakuhle anikezelwe ngobulungisa (kubonelelwe abafazi namahlwempu), ngeenkqubo zokushicilela nokunyanzelisa la malungelo, ukuqinisekisa ukuba kugcinwa ulingano kunikezelo lwemihlaba nokuba izivumelwano azilungiseleli abasebenzisi abathile zidobebele abanye;
- Kufuneka kubekho iinkqubo zokubeka esweni ukusetyenziswa kwemihlaba ukuqinisekisa ukuthotyelwa kwamanani emfuyo nolawulo lwamadlelo. Xa kunikezelwa iifama ezincinci okanye izitya, kufuneka kuqatshelwe ukuba ulingano luyaqinisekiswa ekufunyanweni kwemihlaba<sup>9</sup> (*ukuze kungabikho lusapho lunye lufumana ngaphezu kwesabelo esinye okanye umntu omnye azidibanise izabelo*);

4) Ukufunyanwa kwemihlaba yesisa kufuneka kukhatshwe sisibonelelo nophuhliso lwamanzi nezinye iziseko.

5) Imihlaba yesisa yoomasipala kufuneka isetyenziselwe kuphela ulimo.

6) Ulawulo lwemihlaba yesisa yoomasipala ukuqinisekisa ihlala iyekarhulumente. Kufuneka kubekwe iibhodi zokwazisa kwimihlaba yesisa yoomasipala ezibonisa ngokucacileyo ukuba yekarhulumente.

<sup>9</sup> Thatha ingqalelo: ulingano ekufumaneni akuthethi ulingano ekuxhamleni, qha kudingeka ukuba kulinganwe phakathi kobungakanani bemfuyo abantu abayigcinayo kunye nobukhulu bezabelo zabo.

### Izalathiso

- Anderson, Megan noPienaar, Kobus (2004). MUMhlaba wesisa woomasipala – Ingxelo 6 yoMgaqo-nkqubo we-PLAAS.
- Anderson, Megan (1996). Imihlaba yesisa yeeDolophu kwiNguqu kwezeMihlaba noPhuhliso loQoqosho loMmandla: Uphando lwantlandlolo. Surplus People Project / Land & Agriculture Policy Centre: Iphepha loPhando.
- Andrews, Mercia, Phillan Zamchiya noRuth Hall (2009). 'Ukwalatha indlela eyenye kwiMihlaba yeWayine yase Breeder River', ku: Ruth Hall (ed.), Amandla Amaphandle. Policy Options for Land and Agrarian Reform in South Africa. Cape Town: Iziko leZifundo ngoBuhlwempu, Imihlaba noLimo, Isikolo sikaRhulumente, kwiYunivesity Yentshona (amaph 165-191).
- Isebe loPhuhliso lwaMaphandle neNguqu kwezeMihlaba (DLRDLR - 2009). Isikhokelo see-Ofisi zePhondo noMasipala sokuMiliselwa kweNguqu kwezeMihlaba, Nov. 2009, uhlelo 2.
- Isebe leMicimbi yezoMhlaba (2008). Izibonelelo, Inxaso-mali neNkonzo kuHlelo 8.1 lomhla we 18 Agasti 2008
- Iphepha leNgcaciso yoMgaqo-nkqubo weMihlaba (Epreli 1997) – ngokukodwa jonga: Umhlathi: 3.16 (iph 28) Ukusetyenziswa kwemihlaba yesisa yoomasipala; umhlathi: 4.12 (iph. 50) Imihlaba yeSisa yoRhulumente woMmandla; umhlathi: 4.24 (iph. 73) Isibonelelo sokuFunyanwa kweMihlaba yeSisa yooMasipala; kunye, nomhlathi; 5.11 (iph. 89) Ulawulo lweMihlaba kaRhulumente: Umhlaba weGunyabantu loMmandla.
- Williams, Charles (2009). "Imihlaba yesisa mayibe nengqiqol!". Igalelo le-SPP kwiNkomfa eQukayo engeMihlaba yeSisa yooMasipala, eququzelelwe ngabakwaLegal Resources Centre, 10 Novemba 2009, isingathwe liZiko loZakuzo laseFinland, eKapa.



Izalisekiswa yi: June 2010

**TCOE (Trust for Community Outreach and Education)**

36, Durban Road - Mowbray 7700  
P.O. Box 323 - Athlone 7760  
PH: 021- 685 3033  
FAX: 021-685 3087;  
[www.tcoe.org.za](http://www.tcoe.org.za)

**LRC (Legal Resources Centre)**

3rd Floor, Greenmarket Place  
54 Shortmarket Street, Cape Town 8001.  
P.O.Box 5227 Cape Town 8000.  
PH: 021-481 3000  
FAX: 021- 423 0935  
[www.lrc.org.za](http://www.lrc.org.za)

