ISAHLUKO 2

UMQULU WAMALUNGELO

Amalungelo

7. (1) Lo Mqulu wamaLungelo ulilityе lembombo lentando yesininzi eMzantsi-Afrika. Uqulethe amalungelo abo bonke abantu elizweni lethu kwaye uqinisekisa sokuba ngumntu, ukulingana nenkululeko yentando yesininzi.

(2) Urhulumente makawahlonele, awakhusele, awakhuthaze kwaye awafezekise amalungelo akuMqulu wamaLungelo.

(3) Amalungelo akuMqulu wamaLungelo anokuthi asikelwe umda lusikelo-mda olukwisiqendu 36, okanye olukwenye indawo kuMqulu.

Ukusebenza kwawo

8. (1) UMqulu wamaLungelo usebenza kuwo wonke umthetho, kwaye unkqamangela abawisi-mthetho, urhulumente, iinkundla nawo onke amacandelo karhulumente.

(2) Okutshiwo kuMqulu wamaLungelo kunkqamangela umntu okanye inkampani, ukuba kuyasebenza kuyo, kuxhomekeke nasekubeni kusebenza kangakanani, kucingelwa ubunjani belungelo nobunjani boxanduva oluza nelungelo elo.

(3) Xa isebenzisa okutshiwo nguMqulu wamaLungelo kumntu okanye kwinkampani ngokwesiqendwana (2), inkundla–

(a) ukuze iphumeze ilungelo elikuMqulu, mayisebenzise, okanye ukuba kuyimfuneko, iphuhlise umthetho wohlobo olungabhalwanga phantsi, xa umthetho wepalamente wona ungalifezekisi elo lungelo; kwaye

(b) isenokuphuhlisa imigaqo yomthetho wohlobo olungabhalwanga phantsi ukulisikel' umda ilungelo, kodwa kuxhomekeke ekubeni oko kusikelwa umda kuyavumelana kusinina nesiqendu 36(1).

(4) Inkampani inelungelo lokuxhamla kumalungelo akuMqulu wamaLungelo kangangoko kufunwa bubunjani bamalungelo nabubunjani baloo nkampani.

Ukulingana

9. (1) Bonke abantu bayalingana phambi komthetho kwaye banelungelo lokukhuselwa ngokulinganayo ngumthetho nokuzuza ngokulinganayo kuwo.

(2) Ukulingana kuquka ukuxhanyulwa okupheleleyo nokulinganayo kwawo onke amalungelo neenkululeko. Ngenjongo yokukhuthaza ukuba kulinganwe, kusenokuthatyathwa amanyathelo okuwis' umthetho namanye amanyathelo acetyelwe ukukhusela okanye ukuphucula abantu, okanye iindidi zabantu, ezihlelelekileyo ngenxa yokucalulwa okungafanelekanga.

(3) Urhulumente akavumelekanga ukuba athi, ngokungqalileyo okanye ngokungangqalanga, acalule nabani na ngenye yezi ndlela zilandelayo: ngokobuhlanga, ngokobuni, ngokukhulelwa, ngobume bomntu ngokwasemtshatweni, ngobuzwe okanye ngemvelaphi yakhe ngokwasentlalweni, ngebala, ngotyekelo lwakhe ngokwesondo, ngobudala beminyaka, ngokugogeka, ngonqulo, ngesazela, ngenkolelo, ngenkcubeko, ngolwimi nangokuzalwa.

(4) Akukho mntu uvumelekileyo ukuba acalule ngokungafanelekanga, ngokungqalileyo okanye ngokungangqalanga, ecalula omnye ngenye yezi ndlela zixelwe kwisiqendwana (3). Makuwiswe umthetho yipalamente yezwelonke ukuthintela ucalulo olungafanelekanga.

(5) Ukucalula ngenye yezi ndlela zidweliswe kwisiqendwana (3) okanye ngeendlela eziliqela kwezo kukucalula okungafanelekanga ngaphandle kokuba kuveliswa izibakala ezibonisa ukuba olo calulo lufanelekile.

Isidima sokuba ngumntu

10. Wonk' ubani unesidima esingenakohluthwa nelungelo lokuba sihlonitshwe sakhe kwaye sikhuselwe.

Ubomi

11. Wonk' ubani unelungelo lokuphila.

Inkululeko nokukhuseleka komntu

12. (1) Wonk' ubani unelungelo lenkululeko nokukhuseleka, elibandakanya ilungelo–

(a) lokuba angayohluthwa inkululeko ngokuzenzela nje, okanye kungekho sizathu sivakalayo;

(b) lokuba angavalelwa uhalala kungathethwa tyala;
(c) lokuba angagonyamelwa nangaluphi na uhlobo, nokuba kukugonyamelwa ngamagosa aseburhulumenteni okanye ngabantu nje;
(d) lokuba angangcungcuthekiswa nangayiphi na indlela; nelokuba
(e) angaphathwa okanye ohlwaywe ngendlela ekhohlakeleyo, engenabuntu okanye ethob'.

(2) Wonk'ubani unelungelo lokuba angenziwa nto emzimbeni nasengqondweni, eliquka ilungelo–
(a) lokuzenzel'isigqibo mayela nokuzala;
(b) lokukhuseleka komzimba wakhe nokuba ulawulwe nguye; nelokuba
(c) kungenziwa ufuniselo lonyango okanye lobunzululwazi kuye ngaphandle kwemvume yakhe.

Ubukhoboka nomsebenzi wesinyanzelo

13. Akukho bani unokwenziwa ikhoboka okanye enziswe umsebenzi wesinyanzelo.

Ukuba neemfihlo

14. Wonk'ubani unelungelo lokuba neemfihlo, eliquka ilungelo lokuba–
(a) angasetshwa emzimbeni okanye kungasetshwa umzi wakhe;
(b) ingasetshwa impahla yakhe;
(c) zingathathwa izinto zakhe; okanye
(d) zingaphulaphulwa iincoko zakhe nabanye abantu.

Inkululeko yokunqula, yenkolelo noluvo

15. (1) Wonk'ubani unelungelo lokwenza ngokwesazela sakhe, unenkululeko yokunqula, yokucinga, yokukholelwa, nokuba noluvo lwakhe.

(2) Unqulo lunokuqhutywa kumaziko karhulumente okanye kumaziko ancediswa ngurhulumente, kodwa kuxhomekeka ekubeni–
(a) oko kunqula kulandela imigaqo eyenziwe ngabasemagunyeni abafanelekileyo;
(b) kunqulwa ngendlela engakhalazisiyo; kwaye
(c) ukubakho apho kusimahla kwaye kungokuzithandela.

(3) (a) Esi siqendu asiyithinteli imithetho yepalamente–
(i) eyamkelayo imitshato ekungenwe kuyo ngokwesithethe, okanye ngokwenkqubo yonqulo, okanye ngokwenkqubo yosapho; okanye

(ii) eyamkela iinkqubo ekuqhutywa ngazo kusapho oluthile ngokwesithethe, okanye ngokwabantu bonqulo oluthile.

(b) Ukwamkelwa yimithetho yepalamente ngokwesiqendu (a) makuvisisane nokutshiwo kwesi siqendu nokunye okutshiwo nguMgaqo-siseko.

Inkululeko yokuthetha

16. (1) Wonk' ubani unelungelo lenkululeko yokuthetha, eliquka–
(a) inkululeko yamaphephandaba namanye amajelo eendaba;
(b) inkululeko yokufumana ingcombolo okanye ukunika abanye ingcombolo okanye iingcamango;
(c) inkululeko yokusebenzisa ubuchule bokuziqalela izinto;
(d) nenkululeko yemfundo nenkululeko yophando kubunzululwazi.

(2) Ilungelo elikwisiqendwana (1) aliquki–
(a) ukuphemb' imfazwe;
(b) ukuthundeza abanye ukwenz' ugonyamelo olukhawulezileyo; okanye
(c) ukukhuthaza intiyo esekelwe kubuhlanga, ubuzwe, ubuni okanye unqulo, nekhuthaza ukwenzakalisa.

Ukuhlanganisana, ukuqhankqalaza, noxwebhu lwezikhalazo

17. Wonk' ubani unelungelo lokuhlanganisana nabanye, lokuqhankqalaza nelokudlulisa uxwebhu lwezikhalazo, ekwenza oko ngoxolo kwaye engaxhobanga.

Inkululeko yokuzibandakanya

18. Wonk' ubani unelungelo lokuzibandakanya ngokukhululekileyo.

Amalungelo opolitiko

19. (1) Wonke ummi ukhululekile ukwenza ukhetho kupolitiko, okuquka ilungelo–
(a) lokusungula umbutho wopolitiko;
(b) lokuthabath' inxaxheba kwimisebenzi yombutho wopolitiko, okanye ukuwugayel' amalungu umbutho wopolitiko;
(c) nokuphum' iphulo lombutho wopolitiko okanye iphulo lenjongo yopolitiko.

(2) Wonke ummi unelungelo lonyulo olukhululekileyo, olungenamkhethe nolubakho rhoqo lalo naliphi na iqumrhu lowiso-mthetho elisekwe ngokoMgaqo-siseko.

(3) Wonk' ummi ongumntu omdala unelungelo–
(a) lokuvota kunyulo evotela naliphi na iqumrhu lowiso-mthetho elisekwe ngokoMgaqo-siseko, ekwenza oko emfihlakalweni;
(b) nelokuzigqatsela isikhundla saseburhulumenteni aze, ukuba unyuliwe, angene aso.

Ubumi

20. Akukho mmi onokohluthwa ubumi.

Inkululeko yokuhamba-hamba nokuhlala

21. (1) Wonk' ubani unelungelo lenkululeko yokuhamba-hamba.
(2) Wonk' ubani unelungelo lokumka kwiRiphablikhi.
(3) Wonk' ubani unelungelo lokungena kwiRiphablikhi, lokuqhubeka engaphakathi kuyo, nelokuhlala naphi na kuyo.
(4) Wonk' ummi unelungelo lokuba nephaspothi.

Inkululeko yokurhweba, yokusebenza nokwenza umsebenzi ofundelweyo

22. Wonk' ummi unelungelo lokukhetha ngokukhululeka urhwebo alufunayo, umsebenzi okanye umsebenzi awufundeleyo. Ukurhweba, ukusebenza okanye ukwenza umsebenzi ofundelweyo kusenokuthi kulawulwe ngumthetho.

Ubudlelane emisebenzini

23. (1) Wonk' ubani unelungelo lokuphathwa ngendlela engenamkhethe emsebenzini.
(2) Wonk' umsébenzi unelungelo–
(a) lokusungula umbutho wabasebenzi nokuzimanya nawo;
(b) lokuthabath' inxaxheba kwimisebenzi yombutho wabasebenzi nakwizicwangciso zayo;
(c) nelokugwayimba.
(3) Wonk' umqeshi unelungelo–
(a) lokusungula umbutho wabaqeshi nokuzimanya nawo;
(b) nelokuthabath' inxaxheba kwimisebenzi yombutho wabaqeshi nakwizicwangciso zawo.

(4) Umbutho ngamnye wabasebenzi nombutho ngamnye wabaqeshi unelungelo–
   (a) lokwenz' izigqibo ngolawulo lwawo nezicwangciso zawo nemisebenzi yawo;
   (b) lokuququzelela;
   (c) nelokusungula umanyano uze uzibandakanye nalo.

(5) Umbutho ngamnye wabasebenzi, umbutho ngamnye wabaqeshi nomqeshi banelungelo lokubandakanyeka kwiingxoxo zokubonisana. Kunokuwisw' umthetho wezwelonke ngenjongo yokulawula iingxoxo zokubonisana. Xa kunokuthi umthetho wepalamente ulisikel' umda ilungelo elikwesi Sahluko, oko kulisikel' umda makuvisisane nesiqendu 36(1).

(6) Umthetho wepalamente wezwelonke usenokuthi uwamkele amalungiselelo okhuseleko ombutho wabasebenzi aqulethwe kwizivumelwano zendibaniselwano. Xa unokuthi umthetho owiswe yipalamente ulisikel' umda ilungelo elikwesi Sahluko, oko kulisikel' umda makuvusisane nesiqendu 36(1).

Okusingqongileyo

24. Wonk' ubani unelungelo–
   (a) lokuba okusingqongileyo kungabi yingozi kwimpilo yakhe okanye kwintlalo-ntle yakhe;
   (b) nelokuba okusingqongileyo kukhuselwe, ukuze kuncedakale izizukulwana zangoku nezexesha elizayo, ngokuthi kuwisw' imithetho enokubonelela, kusetyenziswa nezinye iindlela–
      (i) ezithintela ungcoliso nokuwohloka kwemeko yokusingqongileyo;
      (ii) ezikhuthaza ulondolozo lwendalo;
      (iii) nolwenza uphuhliso oluqhubekayo lwemeko yokusingqongileyo nokusetyenziswa kobuncwane bendalo ngoxa zikhuthaza uphuhliso oluthethelelekayo kuqoqosho nakwintlalo.

Umhlaba okanye izakhiwo

25. (1) Akukho bani onokohluthwa umhlaba okanye isakhiwo ngaphandle kokuba kungomthetho osebenza kuwonkewonke, kwaye akukho mthetho onokuvumela ukohluthwa komhlaba okanye isakhiwo kungaboniswananga.

(2) Umhlaba okanye isakhiwo unokuthathwa kuphela ngokomthetho osebenza kuwonkewonke–

(a) ngenjongo eyekarhulumente okanye ukuze kuncedakale uluntu;
(b) xa kuthe kwakho imbuyekezo, exabiso layo, nexesha emayihlawulwe ngalo, nendlela emayihlawulwe ngayo, ekufanele ukuba kuvunyelwane ngabo bachaphazelekayo, kungenjalo igqitywe yinkundla okanye ivunywe yiyo.

(3) Isixa sembuyekezo nexesha lokuhlawulwa kwayo nendlela yokuhlawulwa kwayo mazibe zezinobulungisa nezingakhalazisiyo, zibonakalisa ukulinga-lingana okungakhalazisiyo phakathi koncedo oluzuzwa luluntu nokuchaphazeleka kwabo bachaphazelekayo, kucingelwa zonke iimeko ezifanelwe kukucingelwa, eziquka–
(a) into osetyenziselwa yona ngoku umhlaba lowo okanye isakhiwo;
(b) mbali yokuzuzwa kwaloo mhlaba okanye isakhiwo neyokusetyenziswa kwawo okanye kwaso;
(c) ixabiso laloo mhlaba okanye isakhiwo emarikeni;
(d) ukuthi urhulumente wenza utyalo-mali kangakanani kuwo okanye kuso ngokuthe ngqo noncedo-mali ekuzuzweni kwaloo mhlaba okanye isakhiwo nokuphuculwa kwawo okanye kwaso okuluncedo;
(e) nenjongo yokuthathwa kwawo okanye kwaso.

(4) Ngenjongo yokusebenza kwesi siqendu, ukuncedakala koluntu kuquka ukuzibophelela kwesizwe ekuguqulweni kwenkqubo yomhlaba, nakwiinguqu zokubangela ukuba kufikeleleke ngokungakhalazisiyo kubo bonke ubuncwane bendalo boMzantsi-Afrika.

(5) Urhulumente makathabathe amanyathelo afanelekileyo ngokuwis' imithetho nangezinye iindlela, ngokobuncwane anabo, ukubangela iimeko ezenza ukuba abemi bakwazi ukuba nomhlaba ngokungakhalazisiyo.

(6) Umntu okanye abantu abalungelo labo lomhlaba okanye isakhiwo lingakhuselekanga ngokwasemthethweni ngenxa yemithetho okanye imikhwa yexesha elidlulileyo ecalula ngokobuhlanga unelungelo okanye banelungelo, kangangoko kuvunyelwa nguMthetho wePalamente, lokubambelela kwilungelo elikhuselekileyo ngokwasemthethweni okanye unelungelo okanye banelungelo lokuba abuyiselwe okanye babuyiselwe okulingana noko alahlekelwe okanye balahlekelwe kuko.

(7) Umntu okanye abantu abohluthwe umhlaba okanye isakhiwo emva komhla we-19 kuJuni 1913 ngenxa yemithetho okanye imikhwa yexesha elidlulileyo ecalula ngokobuhlanga unelungelo okanye banelungelo kangangoko kuvunyelwa

nguMthetho wePalamente ukuba abuyiselwe okanye babuyiselwe loo mhlaba okanye eso sakhiwo okanye afumane okanye bafumane imbuyekezo elingana noko alahlekelwe kuko okanye balahlekelwe kuko.

(8) Akukho okutshiwo sesi siqendu okunokuthintela urhulumente ekuthabatheni amanyathelo okuwis' umthetho nawolunye uhlobo ukuze kubekho inguqu kwinkqubo yomhlaba namanzi nokunye okuhlobene noko, ngenjongo yokulungisa iziphumo zocalulo lobuhlanga lwexesha elidlulileyo, kodwa ke kuxhomekeke ekubeni nakuphi na okutenxileyo okutshiwo sesi siqendu kuyavisisana nokutshiwo sisiqendu 36(1).

(9) IPalamente mayiwise umthetho ekuthethwe ngawo kwisiqendwana (6).

Izindlu

26. (1) Wonk' ubani unelungelo lokuba nendlu eyaneleyo.

(2) Urhulumente makathabathe amanyathelo afanelekileyo ngokuwis' imithetho nangezinye iindlela, ngokobuncwane anabo, ukuze alenze lifezeke ngokuthe ngcembe eli lungelo.

(3) Akukho mntu onokukhutshwa ekhayeni lakhe, okanye adilizelwe ikhaya lakhe, ngaphandle komyalelo wenkundla okhutshwe emva kokuqwalasela zonke iimeko emaziqwalaselwe. Akukho mthetho wepalamente onokuvumela ukukhutshwa ezindlwini kungaboniswananga.

Unonophelo lwempilo, ukutya, amanzi nokhuseleko eluntwini

27. (1) Wonk' ubani unelungelo lokufumana–

(a) iinkonzo zokunonophelwa kwempilo, kuquka nononophelo lwempilo olumayela nokuzala;

(b) ukutya okwaneleyo namanzi; kwakunye

(c) nokhuseleko eluntwini, kuquka, ukuba akanandlela yokuzondla ngokwakhe nabo baxhomekeke kuye, noncedo olufanelekileyo oluvela eluntwini.

(2) Urhulumente makathabathe amanyathelo afanelekileyo okuwis' imithetho nawezinye iindlela, ngokobuncwane obufumanekayo, ukuze la malungelo afezeke ngokuthe ngcembe.

(3) Akukho bani onokwalelwa unyango kwimeko yequbuliso.

Abantwana

28. (1) Wonke umntwana unelungelo–
(a) lokuba negama nelizwe angummi walo ukususela ekuzalweni;
(b) lokunonophelwa lusapho okanye lokunonophelwa ngabazali, okanye lokunonophelwa ngenye indlela efanelekileyo xa esusiwe elusatsheni lwakowabo;
(c) lokufumana ukutya okunesondlo esisisiseko, ikhusi, iinkonzo zokunonophelwa kwempilo ezisisiseko neenkonzo zoonontlalo-ntle;
(d) lokukhuselwa kwimpatho-mbi, kwintswela-nkathalo, ekuxhatshazweni okanye ekuthotyweni ;
(e) lokukhuselwa ekuxhatshazweni kwiimeko zasempangelweni;
(f) lokungayalelwa okanye lokungavunyelwa ukuba enze umsebenzi okanye enze iinkonzo–
(i) ezingamfanelanga umntu ongumntwana; okanye
(ii) ezibeka emngciphekweni impilo-ntle yomntwana, imfundo yakhe, impilo yakhe engokwasemzimbeni okanye engokwasengqondweni okanye engokomoya, nokukhula kwakhe;
(g) lokuba angavalelwa, ngaphandle kokuba alikho elinye icebo elinokuzanywa, ekuya kuthi xa kunjalo ke, ukongezelela kumalungelo anawo umntwana ngokwesiqendu 12 nesama-35, umntwana abe nokuvalelwa elona xesha lifutshane lifanelekileyo, kwaye unelungelo–
(i) lokungadityaniswa nabanye abantu abavalelweyo ababudala bungaphezu kweminyaka eli-18;
(ii) nelokuphathwa ngendlela ebonisa, kwaye egcinwe kwiimeko ezibonisa, ulwazelelelo ngobudala bomntwana;
(h) lokuba abe negqwetha alinikwa ngurhulumente, ngeendleko zikarhulumente, kumatyala embambano achaphazela umntwana, ukuba ukungabikho kwegqwetha bekuya kubangela intswela-bulungisa enkulu;
(i) nelokungasetyenziswa ngokuthe ngqo kungquzulwano ekuxhotyiweyo kulo, nelokukhuselwa ngamaxesha ongquzulwano ekuxhotyiweyo kulo.
(2) Ukulungelwa komntwana kokona kubalulekileyo kuwo nawuphi na umcimbi ongomntwana.
(3) Kwesi siqendu igama elithi "umntwana" lithetha umntu obudala bungaphantsi kweminya eli-18.

Imfundo

29. (1) Wonk' ubani unelungelo–
(a) lokufumana imfundo esisiseko, kuquka nemfundo yabantu abadala esisiseko;
(b) nelokufumana imfundo ebhekele phaya, mfundo leyo urhulumente amele ukuba ayenze ifumaneke ngokuthe ngcembe ngokuthabath' amanyathelo afanelekileyo.

(2) Wonk' ubani unelungelo lokufumana imfundo ngolwimi lwaseburhulumenteni okanye ngeelwimi ezikhethwe nguye kumaziko emfundo karhulumente apho loo mfundo inokuthi ifumaneke khona. Ukuze urhulumente aqinisekise ukufezekiswa kweli lungelo nokwenziwa kwalo lisebenze, makacinge ngazo zonke iindlela ezifanelekileyo ezizezinye zemfundo, kuquka namaziko afundisa ngolwimi olunye, kucingelwa–
(a) ubulungisa;
(b) ukusebenziseka;
(c) nemfuneko yokulungisa iziphumo zemithetho nemikhwa yocalulo lobuhlanga yexesha elidlulileyo.

(3) Wonk' ubani unelungelo lokwakha amaziko emfundo azimeleyo aze awalondoloze ngeendleko zakhe, kube ngamaziko–
(a) angacaluliyo ngobuhlanga;
(b) abhalisiweyo kurhulumente;
(c) angehleliyo ngezantsi kumgangatho wamaziko emfundo karhulumente.

(4) Isiqendwana (3) asikuthinteli ukufunyanwa kwenkxaso-mali karhulumente ngamaziko emfundo azimeleyo.

Ulwimi nenkcubeko

30. Wonk' umntu unelungelo lokusebenzisa ulwimi oluthandwa nguye nokuthabath' inxaxheba kubomi benkcubeko obuthandwa nguye, kodwa akukho bani osebenzisa la malungelo uvumelekileyo ukuwasebenzisa ngendlela engavisisaniyo noko kutshiwo kuMqulu wamaLungelo.

Abantu abaphila ngokwenkcubeko yabo, ngokonqulo lwabo nangokolwimi lwabo

31. (1) Abantu abangabenkcubeko ethile, abangabonqulo oluthile, okanye abangabolwimi oluthile abanakulibandezwa ilungelo, bekunye nabanye abantu boluntu lwakowabo–

(a) lokuyonwabela inkcubeko yabo, lokunqula ngokonqulo lwabo, nelokusebenzisa ulwimi lwabo;

(b) nelokusungula imibutho yenkcubeko, yonqulo, neyolwimi, aze umntu azimanye nayo kwaye ayilondoloze, kunye neminye imibutho yoluntu.

(2) Amalungelo akwisiqendwana (1) akanakusetyenziswa ngendlela engavisisaniyo nokutshiwo kuMqulu wamaLungelo.

Ukufumana ingcombolo

32. (1) Wonk' ubani unelungelo lokufumana–

(a) nayiphi na ingcombolo ekurhulumente; kunye

(b) nayo nayiphi na ingcombolo ekomnye umntu, efunekayo ukuze umntu akwazi ukusebenzisa okanye ukukhusela amalungelo.

(2) Makuwiswe umthetho wepalamente wezwelonke ngenjongo yokufezekisa eli lungelo, kwaye loo mthetho unokutsho amanyathelo afanelekileyo amakathatyathwe okwenza lula umthwalo omayela nolawulo nezimali othwelwe ngurhulumente.

Ukwenziwa kwezigqibo ngobulungisa

33. (1) Wonk' ubani unelungelo lokuba ukwenziwa kwesigqibo ngomcimbi wakhe kube kokusemthethweni, okunokubonelela nokusingethwe ngobulungisa.

(2) Wonk' ubani omalungelo akhe aye anyhashwa sisigqibo esithathiweyo unelungelo lokunikwa izizathu ezibhaliweyo.

(3) Makuwiswe umthetho wepalamente wezwelonke ngenjongo yokufezekisa la malungelo, kwaye loo mthetho–

(a) mawuyalele ukuba isigqibo esithatyathiweyo siqwalaselwe ngokutsha yinkundla okanye, apho kufanelekileyo, ngabachopheli-matyala abazimeleyo, abangenamkhethe;

(b) mawunyanzele urhulumente ukuba afezekise amalungelo akwisiqendwana (1) nesesi-(2); kwaye
(c) mawukhuthaze ukwenziwa kwezigqibo ngokutyibilikayo.

Ukufikelela ezinkundleni

34. Wonk' ubani unelungelo lokuba nayiphi na imbambano anayo enokusonjululwa ngokusetyenziswa komthetho kwenziwe isigqibo ngayo ekuxoxweni kwetyala okungenamkhethe esidlangalaleni phambi kwenkundla okanye, apho kufanelekileyo, phambi kwabanye abachopheli-matyala abazimeleyo abangenamkhethe.

Abantu ababanjiweyo, abavalelweyo nabamangalelweyo

35. (1) Wonk' ubani obanjiweyo etyholwa ngokwaphul' umthetho unelungelo-
(a) lokuthula;
(b) lokwaziswa ngokukhawuleza–
(i) ngelungelo lokuthula;
(ii) angeziphumo zokungathuli;
(c) lokunganyanzelwa ukuba enze imvumo-tyala enokuthi isetyenziswe kubungqina nxamnye naye;
(d) lokuziswa phambi kwenkundla kamsinya kangangoko kunokwenzeka, kodwa kungekapheli-
(i) iiyure ezingama-48 ebanjiwe; okanye
(ii) imini yokuqala yenkundla emva kokuba kuphele iiyure ezingama-48, ukuba iiyure ezingama-48 ziphela kungezizo iiyure zokusebenza kwenkundla eziqhelekileyo okanye ngemini engeyiyo imini yokusebenza kwenkundla eqhelekileyo;
e) lokuba ekuveleni kwakhe kokuqala enkundleni emva kokuba ebanjiwe, abekw' ityala okanye aziswe ngesizathu sokuqhubeka kokuvalelwa, kungenjalo akhululwe;
(f) nelokukhululwa ekuvalelweni ukuba ubulungisa buyavuma, ekhululwa ngemiqathango enokubonelela.
(2) Wonk' ubani ovalelweyo, kuquka nebanjwa ngalinye eligwetyiweyo, unelungelo–
(a) lokwaziswa ngokukhawuleza ngesizathu sokuvalelwa;
(b) lokukhetha igqwetha aze afakan' umlomo nalo, kwaye aziswe ngeli lungelo msinya;

(c) lokuba anikwe igqwetha ngurhulumente ngeendleko zikarhulumente, ukuba ngokungabi nalo kungakho intswela-bulungisa enkulu, kwaye aziswe ngeli lungelo msinya;
(d) lokukucel' umngeni ukuba semthethweni kokuvalelwa kwakhe, ekwenza oko buqu phambi kwenkundla, kuze kuthi, ukuba ukuvalelwa oko akukho mthethweni, akhululwe;
(e) lokuba iimeko avalelwe kuzo zivisisane nokuba nesidima kwakhe, ziquke ubuncinane ukwenza umthambo nokunikwa indawo yokuhlala eyaneleyo, ukutya okunesondlo, into efundwayo nonyango, ngeendleko zikarhulumente;
(f) nelokuba athethe kwaye atyelelwe–
(i) liqabane lakhe lomtshato okanye sisinqandamathe;
(ii) sisihlobo esisondeleyo;
(iii) ngumluleki okhethwe nguye kwicala lonqulo;
(iv) nangugqirha okhethwe nguye.

(3) Wonke umntu omangalelweyo unelungelo lokuxoxwa kwetyala okunobulungisa, okuquka ilungelo–
(a) lokwaziswa ngesimangalo esineenkcukacha ezaneleyo ukuze akwazi ukusiphendula;
(b) lokuba nexesha elaneleyo namancedo awaneleyo okulungiselela ukuzithethelela;
(c) lokuba ityala lakhe lixoxwe elubala phambi kwenkundla eqhelekileyo;
(d) lokuba ukuxoxwa kwetyala lakhe kuqalise kuze kufike esiphelweni ngaphandle kokulibaziseka okungavakaliyo;
(e) lokuba abekho xa kuxoxwa ityala lakhe;
(f) lokuba azikhethele igqwetha aze amelwe lilo, kwaye aziswe ngeli lungelo msinya;
(g) lokuba anikwe igqwetha ngurhulumente ngeendleko zikarhulumente, ukuba ngokungalinikwa kungakho intswela-bulungisa enkulu, kwaye aziswe ngeli lungelo msinya;
(h) lokuba athathwe njengomntu omsulwa, athule, anganiki bungqina ekuxoxweni kwetyala;
(i) lokuba anike ubungqina kwaye abuphikise ubungqina obunikiweyo;
(j) lokuba anganyanzelwa ukunika ubungqina obumdyobha ngetyala;
(k) lokuba lixoxwe ityala lakhe ngolwimi aluqondayo, kungenjalo ukuba akunakwenzeka oko, atolikelwe ngolo lwimi aluqondayo kwelo tyala;

(l) lokuba angafunyaniswa enetyala lokwenza isenzo okanye lokungenzi isenzo esasingekuko ukwaphul' umthetho ngokomthetho welizwe okanye ngokomthetho wamazwe ngamazwe ngexesha awasenza ngalo okanye ngexesha angazange asenze ngalo;

(m) lokuba angaxoxisw' ityala ngokwaphul' umthetho mayela nokwenza okanye ukungenzi isenzo awayesele efunyaniswe engenatyala okanye awayesele efunyaniswe enetyala ngaso;

(n) lokuba afumane esona sincinane kwizohlwayo ezitshiwo ngumthetho ukuba isohlwayo esifunwa ngumthetho sokwaphul' umthetho siye satshintshwa kwixesha eliphakathi kokwaphula kwakhe umthetho nokugwetywa kwakhe;

(o) nelokubhenela kwinkundla engentla okanye ityala lakhe liqwalaselwe ngokutsha yiyo.

(4) Nanini na xa esi siqendu sifuna ukuba umntu anikwe ingcombolo, makayinikwe loo ngcombolo ngolwimi aluqondayo.

(5) Ubungqina obufunyenwe ngendlela enyhasha ilungelo elikuMqulu wamaLungelo mabungamkelwa ukuba ukwamkelwa kwabo kuya kukwenza ukuxoxwa kwetyala kube kokungenabulungisa okanye kube nobungozi ekusingathweni kobulungisa.

Ukusikelwa umda kwamalungelo

36. (1) Amalungelo akuMqulu wamaLungelo anokusikelwa umda kuphela ngokomthetho osebenza kuwonkewonke, kodwa ukusikelwa umda oko kube kokunokubonelela nokuthethelelekayo kuluntu olukhululekileyo lwentando yesininzi oluhlonela sokuba ngumntu, ukulingana nenkululeko, kuvelelwa zonke iinkalo emazivelelwe, eziquka–

(a) ubunjani belungelo;

(b) ukubaluleka kwenjongo yokusikelwa umda;

(c) ubunjani bokusikelwa umda nobungakanani bako;

(d) ikhonkco phakathi kokusikelwa umda nenjongo yako;

(e) nokusetyenziswa kweyona ndlela ingcathu yokuyifeza loo njongo.

(2) Ngaphandle kokuba kwenziwa ngendlela exelwe kwisiqendwana (1) okanye exelwe kwezinye iinxalenye zoMgaqo-siseko, akukho mthetho onokuthi ulisikel' umda ilungelo elikuMgaqo-siseko.

limeko zequbuliso

37. (1) Kunokwenziwa isibhengezo sobukho bemeko yequbuliso kuphela ngokoMthetho wePalamente, kunjalonje kuphela xa–
(a) ubomi besizwe busongelwa yimfazwe, luhlaselo, luvukelo, sisiphithiphithi, yintlekele yendalo okanye yenye imeko yequbuliso echaphazela uluntu; kube
(b) ukwenziwa kwesibhengezo kuyimfuneko ukuze kubuye kubekho uxolo nocwangco.

(2) Ukubhengezwa kwemeko yequbuliso, kunye nawo nawuphi na umthetho wepalamente owisiweyo okanye elinye inyathelo elithatyathiweyo elisisiphumo sokwenziwa kweso sibhengezo, kunokuqalisa ukusebenza kuphela–
(a) kwixesha elisengaphambili;
(b) ixesha elingengaphezulu kweentsuku ezingama-21 ukususela kumhla wokwenziwa kwesibhengezo, ngaphandle kokuba iNdlu yoWiso-mthetho igqiba kwelokuba ilolule ixesha lesibhengezo. INdlu inokulolula ixesha lesibhengezo semeko yequbuliso ixesha elingengaphezulu kweenyanga ezintathu ngexesha. Ukolulwa kokuqala kwemeko yequbuliso makube ngesigqibo esamkelwe ngevoti ekuxhasayo oko yesininzi samalungu eNdlu. Nakuphi na ukolulwa okulandelayo emva koko makube ngesigqibo esamkelwe ngevoti ekuxhasayo oko yamalungu eNdlu angama-60 ekhulwini ubuncinane. Isigqibo esingokwesi siqendu sinokwamkelwa kuphela emva kwengxoxo yasesidlangalaleni kwiNdlu.

(3) Nayiphi na inkundla enegunya lokukwenza oko inokuthath' isigqibo ngokufaneleka–
(a) kwesibhengezo semeko yequbuliso;
(b) ngokolulwa kwexesha lesibhengezo semeko yequbuliso; okanye
(c) kwawo nawuphi na umthetho wepalamente owisiweyo, okanye elinye inyathelo elithatyathiweyo ngenxa yokubhengezwa kwemeko yequbuliso.

(4) Nawuphi na umthetho wepalamente owiswe ngenxa yokubhengezwa kwemeko yequbuliso unokutenxa kuMqulu wamaLungelo kuphela ngokwenqanaba–
(a) elifunwa ngokungqongqo yimeko yequbuliso leyo;
(b) lokuba umthetho wepalamente–
(i) uvisisane neembopheleleko iRiphablikhi enazo ngokomthetho wamazwe ngamazwe osebenza kwiimeko zequbuliso;

(ii) uvisisane nesiqendwana (5); kwaye
(iii) upapashwe kuShicilelo-Mithetho lukaRhulumente (Government Gazette) lwezwelonke msinya kangangoko kunokwenzeka emva kokuba uwisiwe.

(5) Akukho Mthetho wePalamente ogunyaza ukubhengezwa kwemeko yequbuliso, kwaye akukho mthetho wepalamente owisiweyo okanye elinye inyathelo elithatyathwe ngenxa yesibhengezo, onokuthi uvumele okanye ugunyaze-
(a) ukukhululwa kukarhulumente okanye nawuphi na omnye umntu ekuphenduleni ngeziphumo zesenzo esingekho mthethweni;
(b) ukuphambuka kokutshiwo sesi siqendu; okanye
(c) ukuphambuka kwisiqendu esikhankanywe kumhlathi wesiCangca samaLungelo Angenakunyhashwa, ngokwenqanaba eliboniswe kweso siqendu kumhlathi 3 wesiCangca.

IsiCangca samaLungelo Angenakunyhashwa

1 Isiqendu	2 Umxholo kweso siqendu	3 Ubungakanani bokukhuseleka kwelungelo
9	Ukulingana	Ngokumayela nocalulo olungenabulungisa, kuphela xa lulolobuhlanga, lulolwebala, lulolobuzwe okanye lulolwemvelaphi ngokwasentlalweni, lulolwesondo, lulolonqulo okanye ololwimi.
10	Sokuba Ngumntu	Ngokupheleleyo
11	Ubomi	Ngokupheleleyo
12	Inkululeko nokukhuseleka komntu	Ngokumayela nesiqendwana (1)(d) no-(e) no-2(c).
13	Ubukhoboka nomsebenzi wesinyanzelo	Ngokumayela nobukhoboka

1 Isiqendu	2 Umxholo kweso siqendu	3 Ubungakanani bokukhuseleka kwelungelo
28	Abantwana	Ngokumayela: • nesiqendwana (1)(d) no-(e); • namalungelo akwisiqendwana (i) nesesi-(ii) kwisiqendwana (1)(g); kunye • nesiqendwana (1)(i) ngokumayela nabantwana abaminyaka ili-15 nangaphantsi.
35	Abantu ababanjiweyo, abavalelweyo nabamangalelweyo	Ngokumayela: • nesiqendwana (1)(a), (b) no-(c) no-(2)(d); • namalungelo akwisiqendu (a) ukuya ku-(o) kwisiqendwana (3), ngaphandle kwesiqendu (d); • nesiqendwana (4); • nesiqendwana (5) ngokumayela nokungamkelwa kobungqina ukuba ukwamkelwa kwabo kuya kukwenza ukuxoxwa kwetyala kube kokungenabulungisa.

(6) Nanini na xa umntu evalelwe akwaxoxwa tyala ngenxa yokunyhashwa kwamalungelo okuzalwa kukubhengezwa kwemeko yongxamiseko, makunikelw' ingqalelo kwimiqathango elandelayo:

(a) makuqhagamshelwane msinya kangangoko kunokwenzeka nelungu losapho elingumntu omdala okanye umhlobo womntu ovalelweyo, aziswe into yokuba umntu ovalelweyo uvalelwe;

(b) makupapashwe isaziso kuShicilelo-Mithetho LukaRhulumente lwezwelonke zingaphelanga iintsuku ezintlanu evalelwe umntu lowo, kuxelwe igama lomntu ovalelweyo nendawo avalelwe kuyo, kuxelwe nenyathelo lemeko yequbuliso avalelwe ngenxa yalo loo mntu;

(c) umntu ovalelweyo makavunyelwe ukuba azikhethele ugqirha aze atyelelwe nguye nangaliphi na ixesha elifanelekileyo;

(d) umntu ovalelweyo makavunyelwe ukuba azikhethele igqwetha, aze atyelelwe lilo nangaliphi na ixesha elifanelekileyo;

(e) inkundla mayikuqwalasele ngokutsha ukuvalelwa kwakhe msinya kangangoko kunokwenzeka, kodwa kungadanga kuphele iintsuku ezili-10 emva komhla

awavalelwa ngawo umntu, kwaye inkundla mayimkhulule umntu ovalelweyo ngaphandle kokuba kuyimfuneko ukumgcina evalelwe ukuze kubuye kubekho uxolo nocwangco;

(f) mntu ovalelweyo ongakhululwanga xa kuqwalaselwa ngokutsha ukuvalelwa kwakhe ngokwesiqendu (e), okanye ongakhululwanga xa kuqwalaselwa ngokutsha ukuvalelwa kwakhe ngokwesi siqendu, unokwenza isicelo enkundleni sokunye kwakhona ukuqwalaselwa ngokutsha kokuvalelwa kwakhe nangaliphi na ixesha emva kokuba ziphelile iintsuku ezili-10 ukususela ekuqwalaselweni ngokutsha kwangaphambili, kwaye inkundla mayimkhulule umntu lowo uvalelweyo ngaphandle kokuba kuseyimfuneko ukumgcina evalelwe ukuze kubuye kubekho uxolo nocwangco;

(g) umntu ovalelweyo makavunyelwe ukuba avele buqu phambi kwayo nayiphi na inkundla eqwalasela ukuvalelwa kwakhe, amelwe ligqwetha koko kuqwalaselwa, kwaye atsho afuna ukukutsho ngokuqhubeka kwakhe evalelwe;

(h) urhulumente makanike inkundla izizathu ezibhaliweyo ezikwenza kuthetheleleke ukuqhubeka kwakhe evalelwe, kwaye makanike umntu ovalelweyo ikopi yezo zizathu ubuncinane kusasele iintsuku ezimbini ngaphambi kokuba inkundla ikuqwalasele ngokutsha ukuvalelwa kwakhe.

(7) Ukuba inkundla iyamkhulula umntu ovalelweyo, loo mntu akanakuvalelwa kwakhona ngezizathu ezifanayo ngaphandle kokuba urhulumente uqale abonise inkundla isizathu esivakalayo sokumvalela ngokutsha.

(8) Isiqendwana (6) nese-(7) azisebenzi kubantu abangengabo abaseMzantsi-Afrika nabavalelwe ngenxa yongquzulwano lwamazwe ngamazwe kuxhotyiwe. Ndaweni yoko, urhulumente makenze okufunwa yimigaqo enkqamangela iRiphablikhi phantsi komthetho wamazwe ngamazwe wokuboniswa kobuntu ngokumayela nokuvalelwa kwabo bantu.

Ukunyanzeliswa kwamalungelo

38. Nabani na odweliswe kwesi siqendu unelungelo lokuya kwinkundla enegunya elifanelekileyo, esithi ilungelo elikuMqulu wamaLungelo linyhashiwe okanye lisemngciphekweni wokunyhashwa, inokuthi ke inkundla yenze uncedo olufunekayo, oluquka ukuvakaliswa kwamalungelo. Abantu abanokuthi baye enkundleni ngaba–

(a) nabani na omele isiqu sakhe;
(b) nabani na omele omnye umntu ongakwaziyo yena ukuzimela;
(c) nabani na olilungu leqela elithile labantu okanye omela elo qela ukuba alincede;
(d) nabani na ofuna ukunceda uluntu;
(e) nombutho ofuna ukunceda amalungu awo.

Ukuchazwa kwentsingiselo yoMqulu wamaLungelo

39. (1) Xa ichaza intsingiselo yoMqulu wamaLungelo, inkundla, abachopheli-matyala okanye abachopheli-mcimbi–
(a) mayikhuthaze izithethe ezisisiseko zoluntu olukhululekileyo lwentando yesininzi oluxabise isidima sokuba ngumntu, ukulingana nenkululeko;
(b) mayiqwalasele umthetho wamazwe ngamazwe; kananjalo
(c) isenokuthi iqwalasele umthetho welinye ilizwe.

(2) Xa zichaza intsingiselo yawo nawuphi na umthetho wepalamente, naxa ziphucula umthetho ongabhalwanga phantsi okanye umthetho wakwantu, zonke iinkundla, abachopheli-matyala okanye abachopheli-mcimbi mabakhuthaze umoya nenjongo yoMqulu wamaLungelo.

(3) UMqulu wamaLungelo awubukhanyeli ubukho bamanye amalungelo okanye iinkululeko ezivunywayo ngumthetho ongabhalwanga phantsi okanye ezifumaneka kuwo, nakumthetho wakwantu okanye kumthetho wepalamente, kuphela nje xa evisisana noMqulu wamaLungelo.