

## ISAHLUKO 2

### UMQULU WAMALUNGELO

#### Amalungelo

7. (1) Lo Mqulu wamaLungelo uyisisekelo sentando yeningi eNingizimu Afrika. Ugcizelela amalungelo abo bonke abantu ezweni lethu futhi uqinisekisa amagugu entando yeningi yokwazisa isithunzi somuntu, ukulingana nokukhululeka.
- (2) Umbuso kufanele uhloniphe, uvikele, ukhuthaze, futhi ufeze amalungelo akuMqulu wamaLungelo.
- (3) Amalungelo akuMqulu wamaLungelo anemikhawulo equkethwe noma okukhulunywe ngayo esigatsheni sama-36, noma kwezinye izingxenye zoMqulu.

#### Ukusebenza koMqulu

8. (1) UMqulu wamaLungelo usebenza kuyo yonke imithetho futhi ubophezela isishayamthetho, iziphathimandla, izinkantolo, nazo zonke inhlaka zombuso.
- (2) Umbandela woMqulu wamaLungelo ubophezela abantu noma lezo zakhiwo ezithathwa ngumthetho njengabantu uma, futhi nginga elingasebenza, uma kubhekwe uhlobo lwelungelo nomsuka wanoma yiziphi izibopho ezibekwa yilelo lungelo.
- (3) Uma kusetshenziswa izimiso zoMqulu wamaLungelo kubantu noma kulezo zakhiwo ezithathwa ngumthetho njengabantu, ngokwemigomo yesigatshana sesi-(2), inkantolo -
  - (a) ukuze ilenze libenomphumela ilungelo elikuMqulu, kufanele isebenzise, noma uma kunesidingo, ithuthukise umthetho owesekwe kuzinqumo nasezinkambisweni ngendlela ezonika ilungelo umphumela lapho umthetho osemabhukwini ungakwenzi lokhu; futhi
  - (b) ingathuthukisa imitheshwana yomthetho owejwayelekile ukuze ikhawule ilungelo, inqobo uma lowo mkhawulo uhambisana nesigaba sama-36(1).
- (4) Lezo zakhiwo ezithathwa njengabantu ngumthetho zinegunya lokuthola amalungelo akuMqulu Wamalungelo, ngendlela edingwa uhlobo lwamaLungelo kanye nolwaleso sakhiwo esithathwa njengomuntu ngumthetho.

## Ukulingana

9. (1) Wonke umuntu uyalingana phambi komthetho, futhi unelungelo elilinganayo lokuvikelwa ngumthetho nokusizakala ngomthetho.
- (2) Ukulingana kumbandakanya ukuthokozela onke amalungelo nenkululeko ngokugcwele nangokulingana. Ukuze kukhuthazwe ukulingana, kungahle kuthathwe izinyathelo zomthetho nezinye ezenzelwe ukuthi kuvikelwe noma kuthuthukiswe abantu noma imikhakha yabantu, abancishiselwe amathuba ngenxa yobandlululo olungafanele.
- (3) Umbuso ungebandlulule umuntu ngokungafanele, ngendlela esobala noma ngendlela ecashile, ngesizathu noma ngezizathu ezibandakanya ukubandlulula ngokobuhlanga, ubulili, ukukhulelwa, isimo somuntu kwezomshado, ubuzwe noma umphakathi umuntu adabuka kuwo, ibala, ubulili umuntu azifanisa noma afaniswa nabo, iminyaka, kukhubazeka, inkolo, unembeza, inkolelo, isiko, ulimi kanye nokuzalwa.
- (4) Akekho umuntu ovunyelwe ukubandlulula omunye ngokungafanele ngendlela esobala noma ecashile ngesizathu noma ngezizathu ngokwemigomo yesigatshana sesi (3). Kufanele kushaywe umthetho kazwelonke ukuze kugwenywe noma kunqandwe ubandlululo olungafanele.
- (5) Ukubandlulula ngesizathu noma ngezizathu ezibalulwe esigatshaneni sesi (3) akufanele ngaphandle uma kuboniswa ukuthi lolo bandlululo lufanele.

## Isithunzi somuntu

10. Wonke umuntu unesithunzi ngokwemvelo futhi unelungelo lokuthi isithunzi sakhe sihlonishwe futhi sivikelwe.

## Impilo

11. Wonke umuntu unelungelo lokuphila.

## Inkululeko nokuphepha komuntu

12. (1) Wonke umuntu unelungelo lenkululeko nokuphepha kwakhe, okumbandakanya ilungelo -
  - (a) lokungephucwa inkululeko ngaphandle kokunikwa ithuba lokuziphendulela

- noma ngaphandle kwesizathu esilungile;
- (b) lokungavalelwa ngaphandle kokuqulwa kwecala;
  - (c) lokukhululeka kuzo zonke izinhlobo zodlame ezivela emithonjeni yombuso noma yangasese;
  - (d) lokungahlukunyezwa nganoma iyiphi indlela; kanye
  - (e) nelokungaphathwa noma ukujeziswe ngendlela enesihluku, engenabo ubuntu nelulazayo.
- (2) Wonke umuntu unelungelo lokukhululeka nokuhlonishwa komzimba kanye nengqondo, okumbandakanya ilungelo -
- (a) lokwenza izinqumo ezimayelana nokuzala;
  - (b) lokuphepha komzimba nokuzilawulela umzimba; kanye
  - (c) nelokungasetshenziselwa ukufuniseka kwezokwelapha noma kwezesayensi ngaphandle kwemvume yakhe ayinikeza lapho esethole ulwazi.

### **Ubugqila, ukusetshenziswa njengesigqila, nokusetshenziswa ngenkani**

13. Akekho umuntu ongenziwa isigqila, asetshenziswe njengesigqila noma asetshenziswe ngenkani.

### **Ukungaphazanyiswa**

14. Wonke umuntu unelungelo lokungaphazanyiswa, okumbandakanya ilungelo lokunga -
- (a) seshwa umzimba noma umuzi wakhe;
  - (b) seshwa kwempahla yakhe;
  - (c) phucwa impahla anelungelo layo; noma
  - (d) phazanyiswa kokuxhumana kwakhe nabanye abantu.

### **Inkululeko kwezenkolo, yenkolelo neyombono**

15. (1) Wonke umuntu unelungelo lokuba nenkululeko kanembeza, eyenkolo, eyokucabanga, eyenkolelo kanye neyombono.
- (2) Imigubho yezenkolo ingabanjelwa ezikhungweni zombuso, noma kulezo zikhungo ezisizwa ngumbuso ngezimali inqobo nje uma -
- (a) leyo migubho yezenkolo ilandela imitheshwana eyenziwe yiziphathimandla zomphakathi ezifanele;
  - (b) iqhutshwa ngendlela efanele; futhi

- (c) ukuthanyelwa kwayo kumahhala futhi kungaphoqelelwa.
- (3) (a) Lesi sigaba asivimbeli umthetho ovumela -
  - (i) imishado ehlanganiswe ngaphansi kwanoma yiliphi isiko noma ngokohlelo lomthetho wenkolo, noma womuntu noma womdeni; noma
  - (ii) izinhlelo zomthetho womuntu nowomndeni ngaphansi kwanoma yiliphi isiko noma olandelwa ngabantu benkolo ethile.
- (b) Okwemukelwa ngokwemigomo yendima (a), kufanele kuhambisane nalesi sigaba kanye nezinye izimiso zoMthethosisekelo.

### Ukuveza imibono ngokukhululeka

- 16. (1) Wonke umuntu unelungelo lokuveza imibono yakhe ngokukhululeka, Okumbandakanya,
  - (a) inkululeko yamaphephandaba neminye imithombo yabezindaba;
  - (b) inkululeko yokuthola noma ukudlulisa imininingwane noma imibono;
  - (c) inkululeko yobuchule ko\wezobuciko; kanye
  - (d) nenkululeko kwezemfundo kanye nenkululeko yocwaningo lwesayensi.
- (2) Ilungelo elikusigathana soku (1) aledluleli -
  - (a) kunkulumoze egqugquzelela impi;
  - (b) ekugqugquzeleni udlame olufufusayo; noma
  - (c) ekutshaleni inzondo eyesekwe ngokobuzwe, ubuhlanga, ubulili noma inkolo, kanye nalokho okungukugquzela ngenhloso yokudala umonakalo.

### Ukubuthana, ukubhikisha, ukuphiketha nokwethula izicelo

- 17. Wonke umuntu unelungelo lokubuthana nabanye, ukubhikisha, ukuphiketha nokwethula izicelo ezibhaliwe ngokuthula futhi kungahlonyiwe.

### Ilungelo lokuzibandakanya

- 18. Wonke umuntu unelungelo lokuzibandakanya ngokukhululeka.

### Amalungelo ezombusazwe

- 19. (1) Yilesi naleso sakhhamuzi sikhululekile ukuzikhethela nokuzenzela izinqumo eziphathelele nezombusazwe, okumbandakanya ilungelo -
  - (a) lokusungula iqembu lezombusazwe;

- (b) lokubamba iqhaza emisebenzini yenhlango yezombusazwe, noma lokuyifunela amalungu; kanye
  - (c) nelokukhankasela iqembu lezombusazwe noma izinjongo ezithile zezombusazwe.
- (2) Yileso naleso sakhamuzi sinelungelo lokhetho olukhululekile, olungenzeleli nolubanjwa njalo ngezikhathi ezimisiwe lwanoma yisiphi isakhiwo sesishayamthetho esisungulwe ngokoMthethosisekelo.
- (3) Yileso naleso sakhamuzi esingumuntu omdala sinelungelo -
- (a) lokuvota okhethweni lwanoma yisiphi isishayamthetho esisungulwe ngokoMthethosisekelo, futhi lokwenza lokhu ngokuyimfihlo; kanye
  - (b) nelokungenela ukhetho lwesikhundla sokumela umphakathi, futhi uma sikhethiwe, sithathe lesi sikhundla.

## Ubuzwe

20. Asikho isakhamuzi okufanele sincishwe ilungelo lobuzwe.

## Ilungelo lokuhamba nokuhlala

21. (1) Wonke umuntu unelungelo lokuhamba ngenkululeko.  
(2) Wonke umuntu unelungelo lokushiya iRiphabhuliki.  
(3) Wonke umuntu unelungelo lokungena, lokusala nokuhlala noma kuphi eRiphabhuliki.  
(4) Yileso naleso sakhamuzi sinelungelo lokuthola iphasiphothi.

## Ilungelo lomsebenzi wezandla, lomsebenzi owenziwayo nelomsebenzi ofundelwe

22. Yileso naleso sakhamuzi sinelungelo lokukhetha ngokukhululeka umsebenzi wezandla, umsebenzi owenziwayo noma ofundelwe. Indlela yokuqhuba umsebenzi wezandla, umsebenzi owenziwayo noma ofundelwe ungase ulawulwe ngomthetho.

## Ubudlelwane phakathi kwabasebenzi nabaqashi

23. (1) Bonke abantu banelungelo lokuphathwa ngendlela efanele emsebenzini.  
(2) Yilowo nalowo msebenzi unelungelo -

- (a) lokusungula nokujoyina inyunyana yabasebenzi;
  - (b) lokuzimbandakanya kokwenziwayo nasezinhlweleni zenyunyana yabasebenzi; kanye
  - (c) nelokuteleka.
- (3) Yilowo nalowo mqashi unelungelo-
- (a) lokusungula nokujoyina izinhlangano zabaqashi; futhi
  - (b) nelokuzimbandakanya kokwenziwayo nasezinhlweleni zezinhlangano zabaqashi.
- (4) Zonke izinyunyana zabasebenzi nezinhlangano zabaqashi zinelungelo -
- (a) lokuzithathela izinqumo ngezokuphathwa, ngezinhlwelo kanye nangezikhwenzayo;
  - (b) lokuhlala; kanye
  - (c) nokusungula nelokujoyina umfelandawonye.
- (5) Zonke izinyunyana zabasebenzi, izinhlangano zabaqashi nomqashi banelungelo lokuvumelana ngokuhlanganyela. Umthetho kazwelonke ungabekwa ukulawula ukuvumelana okwenziwa ngokuhlanganyela. Esimweni lapho umthetho ungabeka umkhawulo welungelo kulesi saHluko, ukubekwa komkhawulo welungelo kufanele kuhambisane nesigaba sama 36(1).
- (6) Umthetho kazwelonke ungavumela amalungiselelo okuphepha enhlangano yabasebenzi aqukethwe kuzivumelwano ezenziwe ngokuhlanganyela. Esimweni lapho umthetho ungabeka umkhawulo welungelo kulesi saHluko, ukubekwa komkhawulo welungelo kufanele kuhambisane nesigaba sama 36(1).

## Indawo okuphilwa kuyo

### 24. Wonke umuntu unelungelo-

- (a) lokuphila endaweni engesiyo ingozi empilweni noma kunhlalakahle yakhe; kanye
- (b) nelokuba kuvikelwe imvelo, ukuze kusizakale izizukulwana zamanje nezizayo, ngemithetho nezinye izinyathelo ezemukelekayo -
  - (i) ezivimbela ukunukubezeka nokucekelwa phansi kwempilo yezitshalo neyezilwane;
  - (ii) ezikhuthaza ukulondolozwa kwemvelo; kanye
  - (iii) neziqinisekisa intuthuko engapheli nokusetshenziswa kahle

kwemithombo yemvelo kube kugquguzelwa intuthuko efanele yezomnotho nakwezenhlahlakahle.

## Impahla

25. (1) Akekho umuntu ongephucwa impahla ngaphandle kwalapho kumiswe umthetho osebenza ngokufanayo kubo bonke abantu, futhi awukho umthetho ongavumela ukuthi umuntu enqatshelwe impahla engazange anikezwe ithuba lokuziphendulela.
- (2) Impahla ingathathwa kuphela njengoba kubekwe wumthetho osebenza kubo bonke abantu ngokufanayo -
- uma kuyisidingo somphakathi noma kuzozuza umphakathi; futhi
  - uma kuzoba nesinxephezelo, futhi isikhathi nendlela yokusikhokha okuvunyelwane ngayo ngabathintekayo noma okunqunywe noma okwamukelwe yinkantolo.
- (3) Inani lesinxephezelo nesikhathi kanye nendlela yokunxephezela kufanele kube ngokulungile nokulinganayo, kuveze ukulingana phakathi kwezintshisekelo zomphakathi kanye nezintshisekelo zalabo abathintekayo, kubhekela zonke izimo ezifanele ezibandakanya -
- ukusetshenziswa kwempahla ngaleso sikhathi;
  - umlando wokutholwa kwempahla nokusetshenziswa kwayo;
  - inani engadayiswa ngalo emakethe;
  - ubungako benani lezimali ezatshalwa umbuso ngqo nexhasomali umbuso owasiza ngalo ekutholalakeni kwaleyo mpahla nasekuyithuthukiseni ukuze ibe yinzuzo; kanye
  - nenjongo yokudliwa kwempahla.
- (4) Mayelana nalezi sigaba-
- intshisekelo yomphakathi imbandakanya ukuzibophezela kwesizwe enguqukwani yezomhlaba, nasezinguqukwani zokuletha ukufinyeleleka okulinganayo kuyo yonke imithombo yemvelo yaseNingizimu Afrika; nokuthi
  - impahla ayigcini kuphela ngomhlaba.
- (5) Umbuso kufanele uthathe izinyathelo zomthetho nezinye izinyathelo ezamukelekayo, ngokusemandleni awo, ukweseka izimo ezivumela izakhamuzi ukuba zikwazi ukuthola umhlaba ngendlela egculisayo.

- (6) Umuntu noma umphakathi onomhlaba ongaphephile ngomthetho ngesizathu semithetho eyayibandlulula ngokohlanga noma okwakuqhutshwa unelungelo, ngendlela ehlinzekelwe nguMthetho wePhalamende, lobunikazi bomhlaba elivikelwe ngomthetho noma lokunikezwa usizo olufanayo.
- (7) Umuntu noma umphakathi owathathelwa impahla ngemuva komhla zi 19 Juni 1913, ngenxa yemithetho noma izinqubo zangaphambilini zobandlululo ngokohlanga, unelungelo njengoba kuhlinzekelwa nguMthetho wePhalamende, lokubuyiselwa leyo mpahla, noma lokuthola usizo olulinganayo.
- (8) Akukho zimiso zalesi sigaba ezingavimba umbuso ekubeni uthathe izinyathelo zomthetho nezinye izinyathelo ngenhloso yokuzuza umhlaba, amanzi nokunye okuhambelana nalokho, ukuze ulungise imiphumela yobandlululo ngokohlanga lwangaphambilini, inqobo nje uma ukuqhela ezimisweni zalesi sigaba kufanele kuhambisana nezimiso zesigaba sama 36(1).
- (9) IPhalamende kufanele lishaye umthetho oshiwo esigatshaneni sesi (6).

### Izindlu

26. (1) Wonke umuntu unelungelo lokuthola indlu efanelekile.
- (2) Umbuso kufanele uthathe izinyathelo zomthetho ezifanele nezinye izinyathelo, ngokusemandleni onawo, zokwenza ukuba leli lungelo libe yimpumelelo eyinqubekela phambili.
- (3) Akukho bantu abangasuswa emzini wabo noma kudilizwe ikhaya labo ngaphandle kwesinqumo senkantolo esenziwe ngemuva kokuba kubhekwe zonke izimo ezifanele. Awukho umthetho oyovumela ukususwa kwabathintekayo bengani kwanga ithuba lokuziphendulela.

### Ukunakekelwa ngezempilo, ukudla, amanzi, nenhlalakahle

27. (1) Wonke umuntu unelungelo lokukwazi ukuthi athole -
  - (a) ukunakekelwa kwezempilo, okumbandakanya ukunakekelwa kwezempilo okuqondene nokubeletha;
  - (b) amanzi nokudla okwenele; kanye
  - (c) nenhlalakahle, okumbandakanya, usizo lomphakathi olufanele uma umuntu engakwazi ukuzondla yena kanye nalabo okufanele aboncle.



- (2) Umbuso kufanele uthathe izinyathelo zomthetho ezifanele nezinye izinyathelo, ngokusemandleni onawo, zokwenza ukuba leli lungelo libe nokuphumelela okuqhubekela phambili.
- (3) Akukho umuntu okufanele anqatshelwe ukuthola usizo lwezokwelashwa oluphuthumayo.

## Izingane

28. (1) Zonke izingane zinelungelo -
  - (a) lokuba negama nobuzwe kusukela ngesikhathi zizalwa;
  - (b) lokuthola ukunakekelwa ngumndeni, noma ukunakekelwa ngabazali noma okunye ukunakekelwa okufanele uma lowo mntwana esusiwe ngaphansi kwesimo somndeni;
  - (c) lokuthola ukudla okunomsoco, indawo yokuhlala, ukusizakala ngokwelashwa okuyisisekelo kanye nokusizakala ngezenhlalakahle;
  - (d) lokuvikelwa ekuphathweni ngendlela engafanele, ukunganakekelwa, ukuhlukunyezwa nokuphathwa ngendlela eyehlisa isithunzi;
  - (e) lokuvikelwa kuzinqubo zokuxhashazwa emsebenzini;
  - (f) lokuthi kungadingeki noma kungavunyelwa ukuthi zenze umsebenzi -
    - (i) ongamfanele umuntu oneminyaka yobudala
    - (ii) elingana neyaleyo ngane; noma
    - (iii) obeka engcupheni inhlalakahle, imfundo, impilo ngokomzimba noma ngokwengqondo, noma ngokomoya, kwesimilo noma kobudlelwano nomphakathi, kwengane;
  - (g) lokungaboshwa ngaphandle kwalapho ukuboshwa kwazo kuyisinyathelo sokugcina esingathathwa, okuyothi uma kwenzeka, ngaphezulu kwamalungelo anikwe ingane ngaphansi kwesigaba se 12 nesama 35, ingane ingaboshwa kuphela isikhathi okuyisona esifanele esifushane engaboshwa sona, futhi inelungelo -
    - (i) lokungahlanganiswa nabanye abantu ababoshiwe abaneminyaka yobudala engaphezulu kwe-18; futhi
    - (ii) iphathwe ngendlela, ibuye igcinwe ezimweni ezikhombisa ukubonelela iminyaka yayo yobudala;
  - (h) lokuba nommeli okhishwe umbuso, ozokhokhelwa uhulumeni, emacaleni

- ombango athinta ingane, uma ukunganikezwa ummeli kungaba nomphumela wokwehluleka okukhulu kobulungiswa; kanye
- (i) lokungasetshenziswa ngqo ekulweni kuhloniwe, kanye nelokuvikelwa ngazozonke izikhathi lapho kuliwa kuhloniwe.
  - (2) Kuzona zonke izinto ezithinta ingane, kuyobekwa phambili izidingo zayo.
  - (3) Kulesi sigaba “ingane” isho umuntu oneminyaka yobudala engaphansi kweyi 18.

## Imfundo

29. (1) Wonke umuntu unelungelo -
  - (a) lokuthola imfundo eyisisekelo, kuhlenganisa imfundo eyisisekelo yabantu abadala; kanye
  - (b) nelemfundo eqhubekayo, okufanele ukuthi umbuso ngezinyathelo ezifanele uyenze iqhubeke nokutholakala futhi kufinyelele kuyona.
- (2) Wonke umuntu unelungelo lokuthola imfundo ngolimi olusemthethweni noma ngolimi aluthandayo ezikhungweni zemfundo zomphakathi lapho imfundo ikwazi ukutholakala ngendlela efanelekile. Ukuze kuqinisekiswa ukuyafinyelela ngempumelelo, ukusetshenziswa kwaleli lungelo, umbuso kufanele uhlolisise yonke imigudu efanele yemfundo, kumbandakanya nezikhungo zemfundo ezifundisa ngolimi olulodwa, kube kuqikelelwa -
  - (a) ukulingana;
  - (b) ukuthi kungenzeka yini; kanye
  - (c) nesidingo sokulungisa imiphumela yemithetho nenqubo yangaphambilini yobandlululo ngokohlanga.
- (3) Wonke umuntu unelungelo lokusungula nokugcina, ngokukhokhela izindleko zakhe, izikhungo zemfundo ezizimele -
  - (a) ezingabandlululi ngokohlanga;
  - (b) ezibhaliswe kumbuso; futhi
  - (c) ezigcina amazanga angekho ngaphansi kwamazinga asezikhungweni ezingaqhathaniswa nazob ezikhungo zomphakathi.
- (4) Isigatshana sesi (3) asizivumbeli izikhungo zemfundo ezizimele ezimalini zoxhaso lombuso.

### Ulimi namasiko

30. Wonke umuntu unelungelo lokusebenzisa ulimi aluthandayo futhi abambe iqhaza empilweni yamasiko ayithandayo, kodwa akekho ovunyelwe ukusebenzisa lawa malungelo ngendlela engahambisani nanoma yisiphi isimiso soMqulu wamaLungelo.

### Imiphakathi yamasiko, izinkolo kanye nezilimi ezithile

31. (1) Abantu abangamalungu emiphakathi yamasiko, izinkolo noma izilimi ezithile abanakuphucwa ilungelo, kanye namanye amalungu alowo mphakathi -
- (a) lokuthokozela amasiko abo, ukuqhuba inkolo yabo nokusebenzisa ulimi lwabo; kanye
  - (b) nokubumba, bajoyine futhi bagcine izinhlangano zamasiko, zenkolo nezezilimi kanye nezinye izinhloko zomphakathi wezakhamuzi.
- (2) Amalungelo esigatshana sesi (1) akufanele asetshenziswe ngendlela engahambisani nanoma yisiphi isimiso esikuMqulu wamaLungelo.

### Ukuthola ulwazi

32. (1) Wonke umuntu unelungelo lokuthola -
- (a) nanoma yiluphi ulwazi olusezandleni zombuso; kanye
  - (b) nanoma yiluphi ulwazi olusezandleni zomunye umuntu noludingekayo ekusetshenzisweni noma ekuvikelweni kwanoma yimaphi amalungelo.
- (2) Kufanele kushaywe umthetho kazwelonke ukuze leli lungelo lisebenze, futhi ungahlinzekela ngezinyathelo ezifanele ukunciphisa umthwalo wokwengamela nowezimali embusweni.

### Ukuphatha ngokusemthethweni okulungileyo

33. (1) Wonke umuntu unelungelo lokuphatha ngendlela esemthethweni, efanele kanye nengenzeleli ngokwenqubo elandelwayo.
- (2) Wonke umuntu onamalungelo ahlukunyezwe kabi yisinyathelo sokuphatha, unelungelo lokunikezwa izizathu ezibhaliwe ngalokho.
- (3) Kufanele kushaywe umthetho kazwelonke ukuze lawa malungelo asebenze futhi lo mthetho kufanele -
- (a) uhlinzekele ukubukezwa kwesinyathelo sokuphatha yinkantolo noma, lapho

- kufanele, kubukeze inkundla ezimele nengavuni hlangothi;
- (b) ubeke isibopho phezu kombuso ukuthi amalungelo akuzingatshana soku (1) nesesi (2) asebenze; futhi
  - (c) ukhuthaze ukusingatha ngempumelelo.

### Ukufinyelela ezinkantolo

34. Wonke umuntu unelungelo lokuthi noma iyiphi ingxabano engaxazululwa ngokusebenza umthetho, inqunywe ngokulalela okungenzeleli yinkantolo yomphakathi noma, lapho kulungile, leyo ngxabano ingaxazululwa yinkundla noma yisithangamu esizimele nesingavuni hlangothi.

### Abantu ababoshiwe, abavalelwe nababekwe amacala

35. (1) Wonke umuntu oboshwe ngoba esolwa ukuthi wenze icala unelungelo -
- (a) lokuthula angasho lutho;;
  - (b) lokwaziswa ngokushesha -
    - (i) ngelungelo lokuthula angasho lutho; kanye
    - (ii) nangomphumela wokuthi angathuli;
  - (c) lokuba angaphoqwa ukuhlambuluka noma ukuvuma izinto ezingase zisetsheziwe njengobufakazi ecaleni lakhe;
  - (d) lokuba ayiswe enkantolo ngokushesha okungase kwenzekwe, kodwa kungakedluli -
    - (i) amahora angama 48 emuva kokuboshwa; noma
    - (ii) ekupheleni kosuku lokuqala lwenkantolo ngemuva kokudlula kwesikhathi esingamahora angama-48, uma ngabe amahora angama-48 edlula ngaphandle kwesikhathi esejwayelekile sokusebenza kwenkantolo, noma ngosuku olungelona olwejwayelekile lokusebenza kwenkantolo;
  - (e) ekuveleni kokuqala phambi kwenkantolo emuva kokuboshwa, lokuba ethweswe icala noma aziswe ngesizathu sokuthi aqhubeke nokuvalelwa, noma adedelwe; kanye
  - (f) nelokudedelwa ekuvalelweni uma izidingo zobulungiswa zivuma, kodwa lokho kunqike emibandeleni efanele.
- (2) Wonke umuntu ovalelwe, kumbandakanya noma yisiphi isiboshwa esidonsa

isigwebo, unelungelo -

- (a) lokwaziswa ngokushesha ngezizathu zokuvalelwa kwakhe;
  - (b) lokuzikhethela kanye nokubonana nommeli nokwaziswa ngokushesha ngaleli lungelo;
  - (c) lokunikezwa ummeli ngezindleko zombuso, uma ngabe ukunganikezwa ummeli kungabukhinyabeza kakhulu ubulungiswa, futhi aziswe ngaleli lungelo ngokushesha;
  - (d) lokuphikisa ukuba semthethweni kokuvalelwa kwakhe akwenze ngaphambu kwenkantolo, futhi uma kutholakala ukuthi lokho kuvalelwa akukho emthethweni, adedelwe;
  - (e) lokuba avalelwe ngaphansi kwezimo ezihlonipha isithunzi sobuntu, kumbandakanye okungenani ukukwazi ukuzilolonga umzimba futhi ahlinzekwe, ngezindleko zombuso, indawo yokumgcina eyanele, ukondliwa okwanele, izinto zokufunda ezanele kanye nokwelashwa kwezempilo okwanele; kanye
  - (f) nelokuxhumana, futhi avakashelwe -
    - (i) ngowakwakhe noma lowo azwana naye;
    - (ii) yisihlobo esisondelene naye;
    - (iii) umeluleki wezenkolo oqokwe nguye; futhi
    - (iv) udokotela oqokwe nguye.
- (3) Wonke umuntu owethweswe icala unelungelo lokuthi icala lakhe lithethwe ngendlela elungile, okumbandakanya ilungelo –
- (a) lokwaziswa ngecala abekwe lona ngokunikwa imininingwane eyanele ukuze aziphendulele;
  - (b) lokuba nesikhathi esanele nezidingo ezanele ukulungiselela ukuziphendulela;
  - (c) lokuba icala lakhe lethanyelwe ngumphakathi ngaphambi kwenkantolo eyejwayelekile;
  - (d) lokuba ukuthethwa kwecala lakhe kuqalwe futhi kuqedwe ngaphandle kokulibaziseka okungafanele;
  - (e) lokuba khona uma kuthethwa icala lakhe;
  - (f) lokukhetha ummeli nokumelwa ngummeli futhi abanelungelo lokwaziswa ngaleli lungelo ngokushesha;
  - (g) lokuba nommeli onikezwe ngumbuso futhi ngezindleko zombuso uma ukunganikezwa ummeli kungabukhinyabeza kakhulu ubulungiswa, futhi

- nelungelo lokwaziswa ngaleli lungelo ngokushesha;
- (h) lokuthathwa ngokuthi akanacala, lokuthula angasho lutho, kanye nelokunganiki bufakazi ngesikhathi kuqulwa icala lakhe;
  - (i) lokunika kanye nelokuphikisa ubufakazi;
  - (j) lokungaphoqwa ukuba anike ubufakazi obuzomethwesa ngecala;
  - (k) lokuba icala liqulwe ngolimi aluzwayo, noma uma lokho kungaphumeleli, athole ithuba lokuthi ukuqulwa kwalo kutolikwe ngalolo limi;
  - (l) lokungagwetshelwa ukwenza noma ukungenzi okuthile okwakungelona icala ngokomthetho wezwe noma wamazwe ngamazwe ngesikhathi ekwenza noma engakwenzi;
  - (m) lokungabhekani necala eliphathelene nalokho asatholwa engenacala lako noma asagwetshelwa kona;
  - (n) lokunikezwa isigwebo esisinda kancane kunesinye esimisiwe uma isigwebo esimiselwe lelo cala sishintshiwe phakathi kwesikhathi sokwenziwa kwecala nesikhathi sokugwetshwa; kanye
  - (o) nelokufaka isicelo sokudlulisa icala, noma ukuhlaziywa kwalo, yinkantolo ephakeme.
- (4) Lapho lesi sigaba sidinga ukuba umuntu aziswe okuthile, lolo lwazi kufanele lowo muntu alunikwe ngolimi aluqondayo.
- (5) Ubufakazi obutholakale ngendlela ephambene nanoma yiliphi ilungelo elikuMqulu wamaLungelo kufanele bungafakwa njengobufakazi ecaleni uma ukufakwa kwalobo bufakazi bungenza ukuthi icala lingaculisi noma kungakhinyabeza ukuphathwa kobulungiswa.

### Ukuncishiswa kwamalungelo

36. (1) Amalungelo aqukethwe kuMqulu wamaLungelo angancishiswa kuphela ngokwemigomo yomthetho osebenza ngendlela yokuthi ukuncishiswa kufanele futhi kwamukelekile emphakathini ovulekile, nowentando yeningi nowesekelwe isithunzi sobuntu, ukulingana nenkululeko, ngokubheka zonke izinto ezithintekayo ezimbandakanya -
- (a) ubunjalo belungelo;
  - (b) ukubaluleka kwezinjongo zokuncishiswa;
  - (c) ubunjalo nobungako bokuncishiswa;

- (d) ubudlelwane phakathi kokunciphisa nezinjongo zako; kanye
  - (e) nezinye izindlela ezinezihibe ezincane ukufeza injongo leyo.
- (2) Ngaphandle uma kuhlinzekelwe esigatshaneni soku (1) noma komunye umbandela woMthethosisekelo, awukho umthetho onganciphisa noma yiliphi ilungelo elihlinzekelwe kuMqulu wamaLungelo.

### Izimo ezibucayi

37. (1) Isimo esibucayi singamenezelwa kuphela ngokulandela uMthetho wePhalamende, futhi kuphela uma -
- (a) impilo yezwe yesatshelwa ngenxa yempi, ukuphanga, ukuvukela umbuso, yeziphithiphithi, yenhlekelele yemvelo noma yesinye isehlakalo esibucayi emphakathini; futhi
  - (b) isimemezelo sidingekile ukuze kubuyiselwe uxolo nokuthula.
- (2) Ukumenyenzelwa kwesimo esibucayi, kanye nomthetho oshayiwe noma isinyathelo esithathwe kulandela leso simemezelo, kungasebenza kuphela -
- (a) kuye esikhathini esilandelayo; futhi
  - (b) ngesikhathi esingeqile ezinsukwini ezingama 21 kusukela osukwini lwesimemezelo sesimo esibucayi ngaphandle uma isiGungu sikaZwelonke sinquma ukwelulula isikhathi sesimemezelo. IsiGungu sikaZwelonke singelula isikhathi sokusebenza kwesimemezelo sesimo esibucayi ngesikhathi esingeqile ezinyangeni ezintathu. Ukwelulwa kokuqala kwesikhathi sesimo esibucayi kufanele kwenziwe ngesinqumo esivunywe yiningi lamavoti angamalungu esiGungu. Ukwelulwa kwesikhathi sesimo esibucayi okulandelayo kufanele kwenziwe ngesinqumo esesekwe okungenani ngamalungu angamaphesenti angama 60 angamalungu esiGungu. Isinqumo esishiwo kulesi sigatshana kufanele sithathwe ngemuva kwenkulompikiswano ebandakanya umphakathi esiGungwini.
- (3) Noma iyiphi inkantolo efanele ingathatha isinqumo mayelana nokubasemthethweni -
- (a) kwesimemezelo sesimo esibucayi;
  - (b) ngokwelulwa kwesimemezelo sesimo esibucayi; noma
  - (c) umthetho oshayiwe, noma isinyathelo esithathiwe ngokulandela kwaleso simemezelo sesimo esibucayi.

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- (4) Noma yimuphi umthetho oshayiwe ngenxa yokumenyezela kwesimo esibucayi ungachithwa kancane kuMqulu wamaLungelo kuphela uma –
- (f) ukuchithwa kwawo kancane kufanele ngokwesimo esibucayi kuphela; futhi (b) umthetho –
- uvumelana nezibopho zeRiphabhuliki ngaphansi komthetho wamazwe ngamazwe omiselwe izimo ezibucayi; futhi
  - uhambisana nesigatshana sesi (5); futhi
  - ushicelelwe kuSomqulu kaHulumeni kazwelonke ngokushesha ngaphambi kokuba umisiwe.
- (5) Awukho umthetho wePhalamende onikeza igunya lokumenyezela kwesimo esibucayi, futhi awukho umthetho oshayiwe noma esinye isinyathelo esithathwe ngenxa yesimemezelo ongavumela noma onganikeza igunya –
- lokuxolelwa kombuso, noma komuntu mayelana nesenzo esingekho emthethweni;
  - ukuchithwa kwalesi sigaba; noma
  - ukuchithwa kwesigaba esishiwo kukholomu yoku 1 yoHla lwamaLungelo Angenakuchithwa, ngendlela evezwe maqondana naleso sigaba sekholomu yesi 3 soHla.

### Uhla lwamaLungelo angeke ajivazwa

<b>1 Inombolo yesigaba</b>	<b>2 Isihloko sesigaba</b>	<b>3 Izinga lokuvikelwa kwelungelo</b>
9	Ukulingana	Mayelana nokubandlululwa okungamukelekile ngokobuhlanga, ibala, ubuzwe noma imvelaphi, ubulili, inkolo noma ulimi.
10	Isithunzi somuntu	Ngokuphelele
11	Impilo	Ngokuphelele.
12	Inkululeko nokuphepha komuntu	Mayelana nezigatshana soku (1) (d) no (e) kanye nesesi 2(c)



ISAHLUKO 2: UMQULU WAMALUNGelo

1 Inombolo yesigaba	2 Isihloko sesigaba	3 Izinga lokuvikelwa kwelungelo
13	Ubugqila, ukwenziwa isigqila nokusetshenziswa ngempoqo	Mayelana nobugqila nokwenziwa isigqila.
28	Izingane	Mayelana: - nesigatshana soku 1(d), kanye no (e); - namalungelo ezindimana (i) kanye no (ii) zesigatshana soku (1)(g); kanye - nesigatshana soku (1)(i) esimayelana nezingane ezineminyaka eyi 15 nezingaphansi.
35	Abantu ababoshiwe, abatokile nabethweswe icala	Mayelana: - nesigatshana soku (1)(a), (b) no (c) nesesi (2)(d); - amalungelo ezindimeni (a) kuye ku (o) esigatshana sesi (3), ngaphandle kwendima (d); - isigatshana sesi (4); kanye - nesigatshana sesi (5) mayelana nokukhishwa ngaphandle kobufakazi uma ukwamukelwa kwalobo bufakazi kungenza ukuqulwa kwecala kwenzelele

- (6) Noma yinini lapho umuntu evalelwe ngaphandle kokuthethwa kwecala ngenxa yokuzithwa kwamaLungelo okuqhamuka ekumenyazelweni kwesimo esibucayi, kufanele kuqikelelwe izimo ezilandelayo -
- Umuntu omdala oyilungu lomndeni noma umngane walowo ovalelwe kufanele athintwe ngokushesha okungase kwenzeke, bese aziswa ngokuvalelwa kwalowo muntu.
  - Isaziso kufanele sishicilelwe kuGazethi kazwelonke kaHulumeni zingakapheli izinsuku ezinhlano umuntu evalelwe, sisho igama lomuntu nalapho evalelwe khona, sibuye sisho nesimo esibucayi aboshwe ngenxa yaso.

- (c) Umuntu ovalelwe kufanele avunyelwe ukuqoka, kanye nokuvakashelwa ngudokotela noma ngasiphi isikhathi esamukelekayo.
  - (d) Umuntu ovalelwe kufanele avunyelwe ukuqoka, ukuvakashelwa ngummeli noma ngasiphi isikhathi esamukelekayo.
  - (e) Inkantolo kufanele ibuyekeze ukuvalelwa komuntu ngokushesha okungase kwenzeke, kodwa zingakapheli izinsuku eziyi-10 ngemuva kosuku lokuvalelwa kwakhe, futhi inkantolo kufanele imdedele lowo ovalelwe ngaphandle uma kunesidingo sokuqhubeka nokumvalela ukuze kubuyiselwe isimo soxolo nokuthula.
  - (f) Umuntu ovalelwe ongadedelwanga ngokwemigomo yesibuyekezo sendimana (e) noma ongadedelwanga ngemuva kokubuyekezwa ngaphansi kwale ndima angenza isicelo enkantolo sokuba kuphinde kubuyekezwe ukuvalelwa kwakhe noma ngasiphi isikhathi ngemuva kwezinsuku eziyi-10 lwenziwe uhlaziyo lwangaphambilini, futhi inkantolo kufanele imdedele umuntu ovalelwe ngaphandle uma kusadingekile ukuba aqhubeke evalelwe ukuze kubuyiselwe uxolo nokuthula.
  - (g) Umuntu ovalelwe kufanele avunyelwe ukuvela mathupha phambi kwanoma iyiphi inkantolo ebhekene nokuvalelwa kwakhe, amelwe ngummeli kuloko kwethanyelwa, futhi akwazi ukwethula izizathu eziphikisa ukuthi aqhubeke nokuvalelwa.
  - (h) Umbuso kufanele wethule phambi kwenkantolo izizathu ezibhalwe phansi zokuthi kubaluleke ngani ukuvalelwa kwalowo ovalelwe, futhi kufanele ulethe ikhophi yalezo zizathu kumuntu ovalelwe okungenani esikhathini esiyizinsuku ezimbili ngaphambi kokuthi inkantolo ibuyekeze ukuvalelwa kwakhe.
- (7) Uma inkantolo idedela obevalelwe, lowo muntu angeke aphinde avalelwe ngezizathu ezifanayo, ngaphandle uma umbuso ungethula phambi kwenkantolo isizathu esiqinile esenza kube nesidingo sokuthi lowo muntu aphinde avalelwe.
- (8) Izigatshana sesi (6) nesesi (7) azisebenzi kubantu abangezona izakhamuzi zaseNingizimu Afrika futhi abavalelwe ngenxa yokulwa kuhlonyiwe okuphakathi kwamazwe. Esikhundleni salokho, umbuso kufanele uhambisane nemigomo ebopha iRiphabhuliki ngaphansi komthetho wobuntu wamazwe ngamazwe mayelana nokuvalelwa kwalabo bantu.

### Ukupoqelelwa kwamalungelo

38. Noma ngubani obalulwe kulesi sigaba unelungelo lokufaka isicelo enkantolo efanele, aveze ukuthi ilungelo eliseMqulwini wamaLungelo lephuliwe noma kungenzeka lephulwe, futhi nenkantolo inganikeza usizo olufanele, olumbandakanya ukumenyezela kwamalungelo. Abantu abangaya enkantolo -
- yunoma ngubani ozifakela yena isicelo;
  - yunoma ngubani owenza isicelo egameni lomunye umuntu ongakwazi ukuzenzela yena;
  - yunoma ngubani ofaka isicelo njengelungu, noma owenza lokho egameni leqembu noma lomkhakha othile wabantu;
  - yunoma ngubani ofaka isicelo ukuzuzela umphakathi; kanye
  - nenhlangano efaka isicelo ngenhloso yokuzuzela amalungu ayo.

### Ukahunyushwa koMqulu wamaLungelo

39. (1) Uma kuhunyushwa uMqulu wamaLungelo, yileyo naleyo nkantolo, inkundla noma isithangamu –
- kufanele sikhuthaze imigomo eyeseka umphakathi ovulekile nobuswa yinqubo yentando yeningi eyesekelwe yisithunzi somuntu, ukulingana nenkululeko;
  - kufanele sibheke umthetho wamazwe ngamazwe; futhi
  - singabuka umthetho wezinye izizwe.
- (2) Uma kuhunyushwa noma omuphi umthetho, futhi uma kuthuthukiswa umthetho owejwayelekile noma umthetho wesintu, yileyo naleyo nkantolo, inkundla noma isithangamu kufanele sikhuthaze umoya, inhloso kanye nezinjongo zoMqulu wamaLungelo.
- (3) UMqulu wamaLungelo awukuphiki ukuba khona kwanoma yimaphi amanye amalungelo noma izinkululeko ezemukelwe noma ezibekwe ngumthetho owejwayelekile, umthetho wesintu noma umthetho oshayiwe, ngendlela ohambisana ngayo noMqulu.