



**Address by Public Protector Adv. Thuli Madonsela during the Annual General Meeting of the Public Relations Institute of Southern Africa (PRISA) at Emperor's Palace, Johannesburg, Gauteng on Monday, June 09, 2014.**

**Mr Solly Moeng, the outgoing President of PRISA;**

**Mr Lungile Lose, the incoming President of PRISA;**

**PRISA Board members;**

**Vice Chancellor and Rector of the University of Free State, Prof Jonathan Jansen**

**PRISA membership at large;**

**Members of the media;**

**Ladies and gentlemen**

Words cannot express my deep gratitude for the honour of addressing you.

We commence the week in a sombre mood as the nation battles come to terms with the sudden passing of Mama Epainette Mbeki, one of the selfless struggle veterans who sacrificed dearly for the rights and freedoms we take for granted today.

My team and I join the Mbeki family, including His Excellency Former President Thabo Mbeki, the people of the Eastern Cape and South Africa as a whole in mourning the passing of MaMbeki, as she was affectionately known.

The passing of MaMbeki follows shortly after that of her late husband's fellow Rivonia Trialist, Ayesha Dawood. We also express our condolences to the family of Ms Dawood while thanking her for playing her part in the struggle for an inclusive South Africa.

My team and I also wish His Excellency President Jacob Zuma a speedy recovery.

I humbly stand before you with a sense of pride as the head of an institution whose success story derives from the fact that ours is a great democracy. Believe me when I say that an office such as mine would never function if we were not a great constitutional democracy that is rooted in the rule of law.

What is it really that the Public Protector South Africa does?

Perhaps the story of Grandmother M will shed some light. Grandmother M approached one of our provincial offices a while ago asking for redress in connection with an injustice she had allegedly suffered from the municipality in her area.

She told us that after an official vehicle of the Municipality ploughed onto her boundary wall and house, the Municipality refused to pay for the damage, which was estimated at R40, 000. She alleged that the Municipality had advised her to pursue the matter in court, which she was unable to do as she could not afford the money and time required.

Using our main approach of whispering truth to power, we mediated a settlement that saw the Municipality admitting liability and paying Grandmother M R37, 000.

I'm certain that Grandmother M's story is not what immediately comes to mind when you think about my office. The reality is that righting the state's wrongs against ordinary persons such as Grandmother M constitutes the bulk of our work at the Public Protector SA. That is why we refer to our ideal complainant as Gogo Dlamini. The bulk of the 40 000 cases we handled last year involved Gogo Dlamini matters such as municipal bills, RDP houses, social grants, Workers Compensation, government pension pay-outs and payments to small business contractors owed by organs of state.

We are able to ensure justice for the persons concerned because of our partnership with government regarding identifying and redressing maladministration.

Not only do we not read a lot about the amicably-resolved Gogo Dlamini cases, we also tend to get the impression that there is a constant battle between my office and organs of state and that they generally do not cooperate with regard to remedying maladministration or its impact on people.

This couldn't be any further from the truth. In the year ending 31 March 2014, we handled about 40 000 cases and concluded about 32 000 of these. Most of these cases were resolved through Alternative Dispute Resolution (ADR) methods, made possible through cooperation by relevant organs of state. Like the Venda Makhadzi, our work involves whispering truth to power on a day-to-day basis through telephone calls, e-mail exchanges and ADR roundtables or hearings.

The reality is that you only hear about a handful of the cases that make it into the news because of the nature of issues and the involvement of high profile state actors. Even among these, we tend to hear mainly about those where there are difficulties with regard to government

implementing the remedial action I would have taken in pursuit of the power I am given by section 182(1)(c) of the Constitution.

In reality, such cases constitute a tiny minority not only in respect of our total caseload but also within the group of investigations they come from which is investigations that culminate in reports. For example, last year we issued less than 30 formal reports. In most of these, my findings were quietly accepted and the remedial action I took was implemented without any drama.

I would say about 99% of cases where we identify maladministration culminate in such maladministration being redressed without a fuss. Unfortunately, in isiZulu we say "**Inala kayihambi kuhamba indlala**". Loosely translated, the expression means that "*bad news travel fast*".

For example, many of you have never heard about the report of Mr N and how the findings were swiftly accepted and remedial action implemented by the Department of Correctional Services.

The case involved my finding that the Department had wrongfully processed the exit papers of Mr N who had been asked by the Department to retire on the grounds of ill-health, leaving him disadvantaged in relation to pension benefits.

When my report found that the Department's conduct amounted to maladministration, the Minister swiftly concurred and undertook to implement the remedial action. She further indicated that it hadn't been her intention to disadvantage the official in that manner.

Quite recently, my report titled *Poisoned Processes*, relating to maladministration in the process of awarding tenders for shop leases at Pilgrim's Rest was accepted and implemented without drama by the Mpumalanga Department of Public Works. That again is constitutional democracy in action.

A perception is developing that the Presidency does not implement the remedial action I take as mandated by section 182(1) (c) of the Constitution. This cannot be any more further from the truth. In my nearly five years as Public Protector, there are only about three reports where I'm waiting for Presidential action. It wasn't so long ago that the President took action against the then Minister of Agriculture following my report, *Costly Moves*, dealing with excesses in the use of executive transport and accommodation privileges. Just before then the President had dealt with the then Minister of Cooperative Governance and Traditional Affairs on similar issues in response to my report titled *In the Extreme*.

Among the cases where I am still awaiting the president's action are the *Docked Vessels* report where I found the then Minister of Agriculture to have acted recklessly and *Secure in Comfort*, where I found that some members of the Cabinet acted in dereliction of duty, so to speak. In the one case the Minister concerned has taken my decision on review and in the other the President has partially complied while asking Parliament for more time as he awaits a Special

Investigating Unit (SIU) report that deals with aspects of the matter forming the subject of my report.

Incidentally, on the same *Secure in Comfort* report, compliance reports from two of the key departments involved were submitted within the timelines stipulated in the report. The President's report to Parliament also complied with the 14 day requirement. It's true that what you focus on grows hence the perception that non-compliance is the norm.

What is the contribution of my office and similar constitutional institutions to the reputation of South Africa as a brand?

My view is that these institutions contribute immensely to our country's reputation as a solid democracy.

These institutions, which include the Auditor-General, the South African Human Rights Commission and the Commission on Gender Equality, were created to support and strengthen constitutional democracy.

These institutions, to which a whole chapter of the Constitution (chapter 9) is dedicated, were meant to support and strengthen constitutional democracy by operating as safety valves, reinforcing public accountability and democracy as a dialogue. I am convinced that they are doing just that and that their success is a tribute to political will and respect for the rule of law by political office bearers and officials at all levels of government.

I often feel that South Africa doesn't really allow herself to take enough credit for having created and ensuring the functionality of these constitutional institutions as part of the architecture of our strong constitutional democracy.

It is my considered view that the fact that these institutions make an impact shows that our democracy is working and that is a success story.

I have noted that our embassies include the work of my office and other constitutional institutions in their narrative of our vibrant constitutional democracy, with sound oversight architecture and fairly strong political will. It is credit to the country's political leadership that such institutions have been created, they are not being interfered with and that, by and large, their reports are being implemented.

All we need to do as we march towards the third decade of freedom is to do more to embrace these institutions to ensure that they grow in playing their part, alongside the judiciary, the legislature and the executive in ensuring accountability, integrity and responsiveness in the exercise of state power and control over public resources.

Efforts should be made to enhance compliance with section 181(3) of the Constitution, which requires other organs of state to protect my office and the other constitutional institutions to ensure their independence, impartiality, dignity and effectiveness.

Regarding the award, I am sincerely humbled and honoured by PRISA's recognition of the Public Protector Team's modest contribution to our country's on-going success as a vibrant constitutional democracy. I am told that, from the day it was founded in 1986, the President's Award has always recognized the recipient's public relations value for the country, among other things.

While the award is conferred on me as an individual, I accept it with humility, as I've done with similar accolades, on behalf of the team of dedicated human beings to whom working for the Public Protector South Africa is a calling. It is their tireless efforts that ensure that Gogo Dlamini gets justice when wronged through maladministration.

It is also them that ensure that state power and resources are always used within the confines of the law and in the public interest. They ensure that public funds that have been treated as "orphaned money" through corruption and other forms of malfeasance are, to the extent possible, clawed back to fund the advancement of human rights and the frontiers of human freedom in pursuit of the constitutional promise. You will recall that our Constitution promises all not just some, an improved quality of life and freed potential.

I also hope that like others, the PRISA award will contribute towards putting the Ombudsman institution and its potential as a partner in entrenching good governance, respect for the rule of law and the upholding of human rights, on the map.

**Thank you.**

**Adv. Thuli Madonsela**

**Public Protector of South Africa**