



**Opening Remarks by Adv Kevin Malunga, Deputy Public Protector at
the Launch of the National Stakeholder Dialogue Thursday 26 June
2013 at 15 on Orange, Cape Town**

**Programme Moderator, Prof. Di McIntyre
Public Protector, Adv. Thuli Madonsela;
Co-Chairpersons of the Committee on Ethics and Members' Interest, Hon. Mashile and
Hon. Turok;
Chief Executive Officers from local hospitals;
Academics;
Members of the media;
Ladies and gentlemen**

It gives me great pleasure to welcome the Public Protector, staff of Public Protector South Africa, our panellists, members of the public, stakeholders and the media to this intense two month 'blitz' or 'roadshow' whatever you would like to call it. Our theme is intrinsic to one of South Africa's success stories which with equal force remains its greatest challenge - that is socio-economic rights. The very fact that these are synonymous with the Millennium Development Goals injunction to end poverty is telling. I am certainly not one of those who subscribes to the nonsense that "Things were better under apartheid". They were not. There is no doubt that successive post-apartheid administrations have attempted to achieve much in the face of limited resources. For that we give due credit. However regardless of the improved basic quality of life that many of our compatriots have seen for many others it remains an elusive dream. The last World Health Organisation-endorsed statistics on South Africa are average and we certainly don't want to be an average country;

WHO Statistics (2011)

Total population	50,133,000
Gross national income per capita (PPP international \$)	10,710
Life expectancy at birth m/f (years)	57/60
Probability of dying under five (per 1 000 live births)	47
Probability of dying between 15 and 60 years m/f (per 1 000 population)	474/407
Total expenditure on health per capita (Intl \$, 2011)	942
Total expenditure on health as % of GDP (2011)	8.5

As an institution, Public Protector South Africa has through both the resolution of individual complaints and systemic interventions attempted to contribute the realisation of socio-economic rights in the country. Without a doubt the courts of the country have handed out trailblazing epoch-making judgments such as *Grootboom* on Housing, TAC on Health, *Soobramoney* on Health and many more on housing. The Chapter 9s among them the Auditor-General and the South African Human Rights Commission continue to visit communities and write reports on the plight of the poor. To give due credit to the Government of the Republic since 1994 it has since 1994 issued well-meaning policy statements and indeed Constitutional provisions more comprehensive than in most so-called first world countries. Civil society has also grown exponentially under the conditions making itself heard at parliamentary hearings etc. The trade union movement is strong and has vigorously pushed the ideal of a better life for all as well. As we think about the great Nelson Mandela I am reminded of his poignant words uttered in front of thousands at Trafalgar Square in 2005.

"Overcoming poverty is not a gesture of charity. It is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life. While poverty persists, there is no true freedom."

The question is then why do we still have such difficult statistics in spite of the well-meaning interventions that we have. I can identify a myriad of reasons and I can list them;

1. Poor implementation of good policies
2. Change of administrations resulting in policy dislocation i.e new brooms enforcing their own policy direction
3. Corruption resulting in theft and/or abuse of critical resources that belong to taxpayers
4. Maladministration, undue delay by state organs
5. Indifference from the private sector which is more often driven by the bottom line and profits
6. In other countries the onerous burden of foreign debt and the intransigence of so-called donor nations

Some in the socio-economic rights discourse such as David Bilshitz have argued perhaps the courts of the land must determine a minimum core of these rights –that they must prescribe the fundamental basics from which we may not deviate. Some have said lets have mandatory interdicts which can be monitored. However, the sad truth is that the law remains elitist and elusive for many. Many South Africans identify with Dick the Butcher's request in Shakespeare's *Henry VI Part II* when he says "Let's kill all the lawyers" because they are out of reach even from the middle class with many counsel wanting R30000 or more for a day's work. The idea of litigating oneself out of poverty is therefore an oxymoron. In fact recourse to the courts to alleviate poverty is for the select few because of the prohibitive fees. I personally (a view shared by many of my colleagues) have taken a dim view of state organs spending exorbitant amounts on senior counsel and attorneys to challenge complaints against them in our processes. For example an old lady wants her pension of R5000 you pay R250000 to fight it. Where is the logic in that?

In light of the challenges stated, this is where we as an institution come into the picture. We are fortunately placed in a position where we can connect the competing sinews or levers of Government, Parliament, civil society and others together. As an independent, impartial institution which enjoys the trust of all levers we are in a good position to facilitate meaningful dialogue on the subject as we do today.

Today's theme “ **Strengthening Government's Ability to Deliver on Ending Poverty, and other Millennium Development Goals** “ is therefore appropriate.

Many people, including media houses, misunderstand the mandate of the Office of the Public Protector. Ours is not a naming and shaming organisation. Nor are we a haven for individuals who seek attention or political mileage by lodging complaints. The essence of our mandate is that of safeguarding South Africa's democratic gains by guarding against maladministration, impropriety, lack of accountability, among others. We are therefore a friend and not a foe of government, the judiciary, the legislature and other architects of good governance. A good friend as you know will nudge you, at times whisper to you and at other times tell you to get lost in the spirit of true friendship. A bad friend will let you self-destruct while gossiping about you with other people. We are the good friend of governance.

As we deliberate today let us build the bridges of dialogue rather than burn them. I am reminded of the HIV-AIDS dialogue in the 1990s. The feeling by policy makers at the time that some were talking down to policy makers rather than engaging them as intellectual equals stifled healthy engagement. It is that spirit which I hope will prevail in today's deliberations and throughout the stakeholder dialogue. A condescending approach only leads to paralysis. That said let me highlight the housekeeping issues regarding the 2013 Dialogue.

Public Protector Consultative Dialogue in a nutshell

In pursuit of her mandate to strengthen constitutional democracy, the Public Protector investigates and redresses improper and prejudicial conduct, maladministration and abuse of power in state affairs.

Annually, the Public Protector conducts a stakeholder consultative dialogue. The objectives of the programme are to:

- Make the Public Protector accessible to and trusted by all persons and communities;
- Advance the cause of promoting good governance and integrity in all state affairs;
- Create a two way communication with stakeholders and create a dialogue on the work of the Public Protector; and
- Raise awareness about the existence, access, mandate and services of the Public Protector.

This year Public Protector is engaged in stakeholder consultative dialogues which take the form of public hearings from 26 June to 15 September 2013. The nationwide public hearings cover all nine provinces aimed at engaging and soliciting stakeholder and public views and experiences on poverty eradication, Millennium Development Goals (MDGs) particularly health and any other service delivery problem that affects a group of people or community.

Millennium Development Goals

The aim of this year's Stakeholder Consultative Dialogues is to assist government in its effort of speeding up poverty eradication and achievement of MDGs. Good governance is key to the implementation of South Africa's development agenda, aimed at poverty eradication and MDGs namely:

- **Goal 1, Eradicate Extreme Poverty and Hunger**

- **Goal 2**, Achieve Universal Primary Education
- **Goal 3**, Promote Gender Equality and Empower Women
- **Goal 4**, Reduce child mortality
- **Goal 5**, Improve maternal health
- **Goal 6**, Combat HIV/AIDS, malaria and other diseases
- **Goal 7**, Ensure Environmental Sustainability
- **Goal 8**, Develop a Global Partnership for Development

Systemic Investigations into health matters

This year's dialogue combines the normal stakeholder consultative dialogue sessions with public hearings on a systemic investigation into healthcare matters. The systemic investigation will cover the following issues:

- a. Infant mortality;
- b. Management of healthcare facilities;
- c. Working conditions of staff, including professionals;
- d. Quality of care;
- e. Resources;
- f. Procurement; and
- g. General.

The focus of this year's dialogue is informed by the trend of complaints which the Public Protector has been receiving on regular basis, and newspaper reports concerning the current state of affairs in health facilities such as hospitals and clinics. There have also been sporadic complaints from health caregivers such as doctors.

The Public Protector recognises the excellent work done by the Department of Health, with regard to reforming the health system in the country. The public hearings on healthcare seek to reinforce that work by focusing on trends in maladministration, which have already resulted in three systemic investigations which are currently being conducted by the Public Protector.

The first of the current systemic investigations focuses on concerns raised by Chris Hani Baragwanath Hospital, primarily relating to irregularities and inefficiencies in the procurement of hospital medicines and equipment leading to interruptions of essential services. The other two focus on neo-natal, infant and child mortality and on complaints received during the 2012 Public Protector Stakeholder Consultations, wherein health services emerged as one of the top three areas of concern in all nine provinces.

The information and evidence gathered during the process will enrich and facilitate the conclusion of these investigations.

Public hearings

During her visit in each province, the Public Protector will engage with a varied network of stakeholders, including members of provincial legislatures, government, civil society, political parties, organised women groupings and the general public.

Issues for discussions will, in the main, centre on poverty eradication and MDGs in particular on healthcare matters that are the subject of the Public Protector's systemic investigations and

public hearings.

However, the sessions will also serve as a platform to discuss other issues involving the work of the Public Protector and any other service or conduct failure complaints against organs of state.

Let me take this opportunity to welcome and handover to South's Public Protector, Adv Thuli Madonsela.

Thank you.