



Address by Public Protector Adv. Thuli Madonsela during the University of Johannesburg's Alumni and Convocation Day in Auckland Park, Johannesburg, Gauteng on Thursday, May 29, 2014.

Programme Director: Ms Leanne Manas

Prof Ihron Rensburg,

UJ members of executive management,

Deans,

Student Leadership,

Members of Convocation,

Illustrious Alumni: Brandan van Staaden CEO of Interactive Technologies; Setlogane Manchidi – Head of CSI, Investec; Lucky Litelu – Chair and Executive, ICRD Group;

Alumni;

Pre-Alumni

Distinguished guests

Ladies and gentlemen

What a privilege and honour it is to be here tonight. I am truly humbled by the privilege of addressing you on the special occasion of UJ's Alumni Day and Convocation. I thank the Vice Chancellor Prof. Rensburg for the honour of being here and Prof. Maluleke for approaching me.

I also understand that the University is celebrating 10 years of its existence and the excellence it has achieved in that single decade. I have been advised that the celebration tonight includes the launch of a book that talks about the journey that UJ has traversed in the last 10 years.

It is amazing how much you can accomplish when you refuse to use excuses as a crutch. UJ could easily sit back and blame its circumstances on apartheid. It was born out the unity of primarily two universities with disparate histories and purposes. Congratulations on choosing the pursuit of excellence. Your success proves that where there is a vision there is a way. If we choose excuses on the other hand we will always find plenty of them.

Yesterday was World Hunger Day. We were told that about 26% of households in our country are facing starvation. Many children in our country go to bed without a meal. There are plenty of excuses we could use to explain why it is so, 20 years into constitutional democracy, while Section 27 of the Constitution gives every person the right to access to sufficient food and water.

We can also explain why a child has to die in a village because he is using a makeshift pit toilet. We can also explain why there are still schools that are built out of mud and schools where learners learn in dilapidated classrooms. We have plenty of excuses that can explain why some children in villages learn in rooms where about two or three grades are learning in one room. We can explain why a child in a village somewhere in KwaZulu-Natal and the Eastern Cape has days that are called “no-school-days” because the roads are too bad and can’t be used during heavy rains or there are no bridges.

But in your case, you have chosen the high road. For those of you who have read Morgan Scott Peck’s *“The Road Less Travelled”* that’s the road where excuses are not used when clearly it is possible to act and make a difference. In your case, you have understood that it takes more energy to explain that which can’t be explained but to simply take action and make a difference.

You remind me of what Margret Mead once said: *“Never doubt that a small group of thoughtful committed citizens can change the world; indeed, it’s the only thing that ever has.”*

I am certain that, in your vision of an excelling society, as part of your *“Art of Accomplishment Campaign”*, you include non-sexism and the achievement of gender equality as envisaged in our constitutional vision of the South Africa we have chosen to become. Why bring in gender equality on an event like this? Well, for two reasons: The first reason is that women constitute more than 52% of the population and about half of the world population.

The second reason is today is “Take a Girl Child to Work Day”. People have complained: “Why take a girl child to work. What about the boy child?” Indeed what about the boy child? The reality is 20 years into democracy women have made great strides into becoming better than second class citizens but they still are second class citizens in some ways. It is work in progress. That is why it is still important that we bring a girl child to work so that she can understand how workplaces operate; so that she can understand that her place is anywhere where she chooses to be.

In any event, why leave half of the world out of the solution? If we are trying to find the world that performs better in terms of food security, economy good governance and the environment, we need both men and women to participate. We need all of the brains we can find and I believe that that is part of your vision. I have seen the leadership of this university, integrated in

terms of race and gender and that tells me that you are harnessing the diversity of humanity to achieve the excellence that you seek to achieve.

I thought I would engage you very briefly tonight about the pursuit of good governance in the context of your chosen theme of *"The Art of Accomplishment"*. The starting point for me is a poem by James Patrick Kinney. Since I recited the poem last week, and I am not a poet, I thought tonight I am not going to recite the poem, I will tell the story behind the poem.

The poem is about six people trapped by happenstance in a dark, bitter, cold place. They are sitting around a fire and the fire is dying. It is bitterly cold and dark. Each one of them has a log of wood. The first man looks at the dying fire and looks at his log. He sees a black man on the other side of the fire and thinks: "No, I am not going to use my log because I don't want somebody who doesn't come from my race to benefit from my piece of wood". He keeps his log. The second person looks around and sees somebody who comes from a different church than his. He looks at his log, looks at the other person and decides: "I will not let somebody from a different religion benefit." The third person, a poor person, looks across and sees a rich man. He looks at his log and he decides "Not a chance! I am not going to let a rich man benefit from my log". And the rich man, not knowing what the poor man is thinking, looks at his and thinks: "The idle poor? I am not going to let him benefit from my log." The fifth man, a black man, looks across at the white man. He doesn't know that the white man withheld his log because of his own race. He looks at his log. He also decides: "I am not going to let the white man benefit from my log". The last man, a mercenary, who, in his entire life, has never done anything without gain, decides: "These people are not going to pay me. Why must I use my piece of wood?" He decides not to use his log. You probably know what their fate was. The poem ends with the following words: "They didn't die from the cold without. They died from the cold within."

As human beings, we are social beings. Our survival depends on what we do individually and collectively. But, like the six men, how often do you refuse to act because you think: "I didn't create the problem; whoever created it must solve it?" How often do we refuse to participate in structures because we think: "It is not for me, let the politicians handle it? I will just complain when they do it wrong."

Earlier on I came across a quote from Plato about refusing to participate in politics and the punishment you get is to be governed by a certain kind of humanity. I am not going to say what kind of humanity. Google that and you will find out.

When we think about governance, we always think about government, which is the management of public affairs. But governance applies beyond what happens within the state or within government. Earlier, we heard from Prof. Rensburg, the Vice Chancellor, talking about the vision of this university and what you have done to achieve the excellence you celebrate today. He also appealed to this convocation to participate in further steps to take this university forward. So governance happens at different levels.

I will start at a personal level. Again, going back to Plato, he says: "The most important battle for every human being is to conquer yourself." If you can't conquer yourself, forget about conquering other people. So governance starts with self-governance. As I have indicated, we

are social beings and society is governed in terms of common visions, common values and then rules that regulate how we are supposed to behave. So governance is about managing yourself to ensure that, to the best of your ability, you give to society more than you take from society. If we all had to do that, we would have a better world indeed. We have to govern ourselves in families as well. The example of those people who died because they wouldn't take action to revive the fire applies to families as well. If we are always apportioning blame and not playing our part to fix things, things fall apart.

But more importantly, tonight we are more concerned about organizations and the country as a whole. Earlier on, I heard the Professor appeal to this convocation to participate in, what I would refer to as a food security scheme for students in this university. That is a request that you take your log of wood to ensure that those young people get food. A couple of days ago, we learned about young people that are said to have resorted to prostitution because they were hungry. You could say, like the people who didn't use their logs of wood that "it doesn't concern me". It does, if they get HIV, the pandemic gets energy in our country and it becomes a nation problem. If they can't finish their studies because they become sick they become a burden to their families and our welfare system. If they give birth to children that are not properly looked after, we end up with a cycle of poverty and possibly crime, when those young people do not know how to look after themselves. That is playing our part in society by acting to improve the conditions for ourselves and fellow human beings and the second part though, a very important part, is playing our part in governance systems. In organizations such as universities we have rules and codes of conducts. You can't just leave it to the people that have been appointed or elected to run the affairs. We need to play our part in keeping the fires burning. How do we do so? By pointing how things should be done, by volunteering to do some of the things and by holding those we have given power accountable for the exercise of that power.

At the level of society, what does the poem tell us? A few weeks ago, we elected people; to those we gave the power to govern our affairs. We said to those people: ***"Here is the power and our resources. As you lead the public institutions we have appointed you to lead, you must do so for our benefit and within the confines with the law"***. That's what you said when you voted people into power. What do you do after that? You don't wait for another five years for them to be held accountable through yet another voting process. You work -with democracy as a dialogue- with them to ensure that guidance is provided on what policies need to be put in place to ensure that they take care of your affairs and ensure that what they do is responsive to all of your needs. We also participate in planning processes and, lastly, we participate in mechanisms to hold them accountable. Mechanisms to hold those in government accountable are plenty. We have a multiple accountability framework in South Africa. You can hold those in public power to account to directly through asking them questions, writing to them, requesting meetings as individuals and as groups, preferably as groups because as individuals it might be just too much trouble to speak to about 30 million of the 50 million people all the time.

You can hold them accountable through internal structures that they have that consult with the public through outreach such as imbizos.

But through our constitutional democracy formal accountability mechanisms were created. These include institutions supporting constitutional democracy such as the Public Protector, the Auditor-General, the Human Rights Commission, the Commission for Gender Equality and the Commission on Linguistic and Cultural and Religious Rights. You can work with these institutions to hold government to account. If it is the Public Protector, you may report what you consider to be improper conduct. If it is the Auditor-General, you may report any accounting irregularities that you see. If it is the Human Rights Commission, you may report human rights matters, and to the CRL you may report the Commission on Gender Equality, issues relating to equality between women and men. There are also institutions supporting constitutional democracy that are not in Chapter 9 of the Constitution. These include the Public Service Commission. All of these institutions hold government accountable to ensure good governance through administrative mechanisms. It is a new concept to have administrative accountability mechanisms. Traditionally we have had political accountability which is what I have spoken about. It starts with voting and finally, Parliament holds the executive accountable through political processes. Then we have judicial accountability, where the judiciary has the power to examine the acts of other arms of government. If they have failed to act within the confines of the Constitution, the judiciary can strike out those acts as unconstitutional.

With the new Constitution, we have administrative accountability, which is very important for you as citizens because it allows you to participate very effectively in democracy as a dialogue. For example, as the Public Protector, we investigate in terms of Section 182 of the Constitution, make findings, report and take appropriate remedial action to direct government to do something. What if government doesn't do anything?

I have heard members of the public saying: "They haven't implemented your reports. That means you are a toothless dog!"

I was hoping that the key message I am going to leave you with tonight is that if I am a toothless dog that means society, as my teeth, is dead because a Public Protector operates as the conscience of government and the voice of the people.

Once we have made a finding on wrongdoing or improper conduct as required by Section 182 of the Constitution; firstly it is up to the wrongdoer to correct things. That's where self-management comes in. They have to do the right things because they themselves are convinced that it is the right thing to do. But when that fails you as society has to come in and demand that the right thing be done. It is not necessary to wait for the courts. Of course the courts can step in but building into our constitutional architecture, an institution such as the Public Protector was meant to strengthen your hand as society. It was meant to strengthen your participation in democracy as a dialogue.

An ombudsman such as the Public Protector reports and takes the matter back to you as society. That's why we go to the media because we can't speak to 30 million of the 50 million people, assuming the rest are children. We cannot speak directly to each one of the members of society. We go to the media and say, this is what we have found now, work with us (as members of the public) to ensure that corrective action is taken. We call it moral suasion because as society we know what is right or wrong.

The other day I was listening to a documentary about how ants are organised. They organise in such a manner that everyone knows what their role is in society and anyone who steps out of line is corrected by that ant society. Democracy requires that we all play our part. We don't keep our log and say the Public Protector is going to use her log. We all use our logs to ensure that we keep the fire of democracy burning.

What is good governance? What is our role as the Public Protector and your role as civil society?

The United Nations has indicated that good governance has the following elements:

- It is consensus-orientated;
- It is participatory;
- It follows the rule of law;
- It ensures that the state or organizations are run with effectiveness and efficiency;
- It ensures that there is accountability;
- It ensures that there is transparency;
- It ensures that there is responsiveness; and
- It ensures that there is equitability and inclusiveness.

When we investigate improper conduct in state affairs, we use some of these as touch stones. We use the law, but proper conduct, even here at this university, is not only about not breaking the law. Proper conduct includes obeying the organisational code of conduct and acting in a manner that respects and exhibits the values of this institution. Is it not so?

The same applies in government. Section 182 of the Constitution is not only asking people in government to obey the law. It is asking them to act properly. How do they act properly? They have to act in such a manner that the vision of society created by the Constitution is realised sooner rather than later.

The Constitution wants a society that is as follows:

***“We, the people of South Africa,
Recognise the injustices of our past;
Honour those who suffered for justice and freedom in our land;
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs to all who live in it, united in our diversity.
We therefore, through our freely elected representatives, adopt this Constitution as the
supreme law of the Republic so as to***

- ***Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;***
- ***Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;***
- ***Improve the quality of life of all citizens and free the potential of each person; and***
- ***Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.”***

Everything that government does and that corporations do and organisations in society do should contribute to creating this society that is envisaged in the Constitution. For those in government, there are rules in terms of how they are supposed to operate. That is part of the architecture which defines the character of the state. Section 96 of the Constitution for example, tells us that those in the Executive have to act ethically. That means they have to avoid self-interest and conflict of interest in the way they deal with our resources. Section 195 of the Constitution talks about putting people first, using public resources efficiently and economically, primarily, for the benefit of all. Section 237 talks about ensuring that all constitutional obligations are performed diligently and without delay. Those are the things we look at from our side when we are looking at promoting good governance by detecting maladministration and working with those in government to eliminate it.

Those in civil society generally have to participate in policy-making and planning. At local government there is even something called an Integrated Development Plan (IDP). It is not just for poor people to attend those IDP meetings. We all have an opportunity to attend the IDP meetings to ensure that the things that are captured in the plan duly give priority to measures that are going to develop our people. Primarily, we must ensure that IDPs put basic needs first whilst ensuring that we continue to be a globally competitive society. Our role is to participate in those structures and ultimately to participate in a process of ensuring accountability. In other words, we all have an important role in ensuring that our state is accountable, operates with integrity at all times and is responsive to the needs of all our people. If we do so, we are not going to die from the cold within because we will use our logs of wood to ensure that the fire is not just sustained but the fire of constitutional democracy is given more energy so that the things we have failed to do in the last 20 years of democracy are done in the next few years of democracy. The phenomenon of a child who goes to a pit toilet should be history. The phenomenon of children who have no-school-days should be history. And the phenomenon of children who learn in classrooms where two or three grades are in that classroom should also be history. We can all play our part in ensuring that this is done. We can do so, so says Margaret Mead, when we heard her message that: ***“Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.”***

Thank you.

Adv. Thuli Madonsela

Public Protector of South Africa

29 May 2014

