



**Address by Public Protector Adv. Thuli Madonsela during the “Tokara Event” in Stellenbosch, Western Cape on Tuesday, November 06, 2012**

***Curbing corruption in SA today – the importance of new norms and values for our society and context.***

**Programme Director and Chairperson of Centre for Christian Spirituality, Rev Edwin Arrison;  
Director of the Centre, Mr Caren Anthonisson;  
Other leaders of the Centre;  
Distinguished guests;  
Members of the media;  
Ladies and gentlemen;**

I am honoured to address you this morning on the important issue of corruption, which has become one of the biggest threats to our hard won democracy. I am grateful to the organizers, the Centre for Christian Spirituality for extending a platform for my office to reach out to yet another group in our society. My team and I value these opportunities as they always take us one step forward towards accessibility to all persons and communities as directed by section 182(4) of the Constitution.

Corruption is often referred to as a cancer. This comparison is accurate. Like cancer, corruption can devour a nation the same way cancer devours a body.

But what is corruption? We all talk about it but do we have a common understanding?

There are many definitions of corruption. I prefer the simple one by Transparency International (TI), a leading international civil society organization that devotes its resources to waging a global war against corruption.

According to TI, corruption is simply "the abuse of entrusted power for private gain." TI adds that corruption "hurts everyone who depends on the integrity of people in a position of authority."

You will agree with me that for people to receive service that is fair and responsive from anyone, particularly the public sector, the integrity of those who make decisions about such service, is paramount. Where integrity is compromised service usually suffers.

The story of Ms M is one of several case studies from my office. Ms M approached my office

after unsuccessfully trying to get a grant for her one child from the South African Social Service Agency SASSA. She advised that on approaching SASSA she had been informed that she already had a grant for two children. Her protests fell on deaf ears. She even suggested that the two children in the system be removed and replaced with the one child she actually had but SASSA wouldn't budge. The investigation by my office revealed that Ms M was a victim of a corruption syndicate spanning three organs of state namely Health, Home Affairs, SASSA and a private sector supermarket. The scam involved identity theft facilitated by Home Affairs, fictitious children facilitated by a Health Clinic, grant processing by SASSA and payments by the supermarket. Needless to say that Ms M was hurt due to lack of integrity among those responsible for services in clinics, the issuing of identity documents at the Department of Home Affairs and social grant decisions at SASSA.

Another case study that may be of interest to you is that of Ms N. She approached me after her house had been burnt down following harassment by the community where she resides. Her account revealed that she had applied for an RDP house. Thinking that her turn to experience the joys of owning her own home, had not yet arrived, Ms N continued to reside in a shack. One day a municipal employee asked her why she was still residing in a shack while having an RDP house. When Ms N said she had never been allocated an RDP house the "whistle-blower" insisted that her name had been on a list of allocated houses a while back and later provided evidence. On confronting the municipality with the information and demanding her house, Ms N's demands fell on deaf ears. She was only able to get her house which had allegedly been corruptly allocated by a councilor to her relative, when he received help from a councilor from an opposition party. After that she was threatened harassed and her house and daughter's car burnt down. Again had it not been for integrity lapses in the allocation of the house in the first place, Ms N and her family would not have suffered the trauma they experienced.

You must be aware that my office is constitutionally mandate to investigate any conduct in state affairs or the public administration that is alleged or suspected to be improper or prejudicial, to report on that conduct and to take appropriate remedial action. Improper conduct includes various forms of maladministration, including people unfairly, abuse of power, abuse of state resources, unethical conduct in violation of the Executive Ethics Code and corruption. My office's powers are expanded and clarified by various statutes, including the Public Protector Act, Executive Members' Ethics Act, Protected Disclosures Act, Prevention and Combatting of Corrupt Activities Act, the Housing Protection Measures Act and the Promotion of Access to Information Act. Such powers transcend investigation and include public dispute resolution through conciliation, mediation, negotiation and other appropriate dispute resolution measures. The office also enjoys review powers over the decisions of the Home Builders Registration Council under the Housing Protection measures Act.

There are many more case studies from our integrity investigations. In fact many of these investigations commence as service failure investigations and as the story unfolds, corruption or related integrity violations emerge as the cause of the service failure.

Our preliminary observations following public hearings we have conducted on RDP housing delivery challenges, point to corruption as a key factor behind service failure. Although we have not yet investigated many of the allegations, authorities at local government, provincial government and local government have already conceded that some of the allegations of corruption in the procurement, and allocation of RDP houses are true. The allegations include approval of projects without or contrary to geo-technical reports, appointment of contractors with no track record or capacity and through non-competitive processes, price inflation, false billing and payment for shoddy work.

A few weeks ago I was approached by specialist doctors from a major hospital in our country. They complained about lack of basic facilities and medicines, alleging that at some stage they had to close down one of the specialist wings in the hospital until the national minister intervened and provided finance. They principally blamed procurement for the fiasco, alleging that procurement was not people needs driven but rather influenced by kick-backs and ineptitude. We have not yet investigated the allegations. An example given was one of security cameras purchased and without video monitors and therefore serving no purpose. But the complaint regarding lack of medicines and the purchasing of “white elephant” equipment appears to be universal. During our recent public hearings, we heard allegations of this nature in virtually every province. When we visited Olifantshoek recently, they did not even have a cooking stove and it was alleged that this had been the case for more than a year.

It is a well-known fact that the state pays more for basic goods such as stationery, computers and furniture whereas you would expect the state to pay less through leveraging its bulk buying power. Even accommodation for offices and places of residence for public office bearers costs far more for the state than it does for ordinary persons. You will recall that this is one of the issues highlighted in the *Against the Rules* reports released in 2011. This is not the case in other countries though. Most governments leverage bulk buying power to get cheaper goods and services. The one universal problem that this country has not even woken up to yet is the problem of false billing. The practice involves invoicing and receiving payment from organs of state for services or goods that have not been provided or double billing for the same services or goods. This is one of the issues highlighted in the *On the Point of Tenders Report* I issued a few weeks ago.

My team and I suspect that our government is losing billions through false billing. We intend to conduct a systemic investigation some time next year. Travelling and hospitality services have specifically been fingered in this regard. Corruption is blamed as the allegation is that the false billing is enabled through collusion between public officials and state contractors.

For now we will make some inroads into false billing through the systemic investigation we are conducting into RDP housing. The systemic investigation into medicine and equipment shortages at the major hospital will also look into false billing and so will one we are conducting into neo-natal deaths. Our investigations into book distribution, scholar transport and scholar feeding schemes will also look into this.

If these allegations prove to be true this means that public money that is meant to procure goods and services meant to end poverty and underdevelopment, through services such as healthcare and education, is syphoned off to line the already swollen pockets of “tenderpreneurs”.

Previously I have remarked that while as a nation we have made marvelous progress towards the fruits of democracy promised to the people of South Africa by the Constitution, progress has been stunted by various forms of maladministration, including corruption.

The census results for example, tell us that despite the constitutional promise to end inequality, inequality persists and in some respects we have become more unequal than we were when the journey towards the new nation commenced with the adoption of our globally acclaimed Constitution. More recently, we committed ourselves together with other nations to halve poverty by 2015 but the census results tell a different story.

Unemployment is at about 25% with 50% of our young people being without jobs. There seemingly is a correlation between provinces known to have systemic maladministration challenges and slow delivery on socio-economic rights such as health, housing and education.

This brings us to the issue of norms and values. Do we need new norms and values or must we simply go back to basics? It seems to me that we need a bit of both. You may be curious as to the basis of my approach.

Firstly, corruption is a symptom of selfishness. That is not a traditional value of this country. It is also not a new formal value if we take the founding values in the Constitution as our new values. Traditional culture in this country was based on sharing. Many rural people still live according to the principle of sharing. In most African traditional cultures you feed those under your care, including visitors, before feeding yourself. Also traditional culture was about reaping the fruits of one's sweat. There are proverbs in all our cultures that attest to this. That cannot be consistent with the instant wealth that comes with "tenderpreneurship". Robbing the poor as seen in billing for RDP houses not delivered, including bribing poor people to sign happy letters pretending to have received homes they never received, cannot be consistent with traditional values.

The struggle for democracy in this country was fuelled and propelled by unparalleled selflessness. People enrolled in the struggle without expecting a cushy or pampered life either as public authorities or as state contractors. The key expectations then were prison, exile or death. Where has the selflessness gone? Others say the plot was lost the day Black Economic Empowerment (BEE) became Political Economic Empowerment (PEE). If this is true then the blame cannot be laid only at the door of politicians and public officials. What about the business people that decided that you must be a powerful or well-connected politician to be given the free or discounted BEE shares? There were many unconnected hard working business persons in this country. How many of these benefited from BEE? According to SACOB, virtually none.

I've already alluded to the constitutional values that are meant to form the glue that binds our new nation. According to the Constitutional Court decision in *S v Makwane*, one of our new foundational values is the value of Ubuntu. Human solidarity and the golden rule are essential elements of the value of Ubuntu. The value of human dignity has also been highlighted as a key value underpinning our constitutional democracy. The values of ubuntu and human dignity cannot be consistent with corruption or the use of state power for self-enrichment. Ubuntu is more consistent with the principles of public administration in section 195 of the Constitution. It is also more in line with the principles of Batho Pele, which are about putting people first.

Section 96 of the Constitution, which dictates ethical standards for members of the Executive is in line with the theme of putting people first. In fact putting your own interests first is expressly prohibited under section 96 through the prohibition and regulation of conflict of interest. The Constitution is clear on the character of the state that is to deliver on the constitutional promise of an improved quality of life for all people and the freed potential of each person. It's a state that is transparent, accountable and that is informed by public interest and not self-interest. Section 237 of the Constitution goes further to say that constitutional obligations are to be implemented with diligence and without delay.

Clearly therefore neither our past nor our future values are responsible for the moral bankruptcy that feeds corruption. Where then does corruption get its power from? It seems to me that the state has not transformed enough to embrace the people first values in the Constitution. There is no denying that we inherited an uncaring and insular state. Furthermore, there is a culture of boundless materialism that has crept in. Others say such a

culture is natural for new democracies with others going further to label it a liberator syndrome. Michela Wrong refers to such a syndrome in her book "It's our Turn to Eat".

If we use George Orwell's animal farm scenario, the narrative moves from our turn to eat to "We are eating for you". You'll recall that in George Orwell's animal farm the pigs soon pamper themselves at the expense of the rest of the animals, defending their excesses on account of the need for them to be well looked after in order to serve the "starving" animals.

What can civil society do? Civil society can and is doing a lot. The education sector, faith community and business community are particularly well placed to positively influence the values that inform state action. This includes the basic treatment of people and the attitude towards state resources, with emphasis on who should be the primary beneficiary of state action and state resources.

I'm not sure how many of you are aware of the emerging good governance movement in this country. Incidentally I have since discovered that there is a global governance movement, which will be meeting in Prague in a few weeks' time. Back to the national good governance movement, this is an initiative of the Public Protector SA and other Integrity Institutions, which is in its third year. We started with a Good Governance Week and Conference in 2010. By 2011 we decided to constitute ourselves into a Good Governance Forum bound together by our commitment to entrenching Good Governance anchored in public accountability, ethical governance and ending impunity. This year's conference and focus week focused on ethical governance.

As the good governance movement we seek, like you, to focus on the South Africa we want as opposed to the one we reject. Ethical governance and public accountability are at the centre of the South Africa we long for. In other words instead of moaning the dark, we have chosen to light a candle against corruption. We will be initiating various initiatives aimed at mobilizing public support for ethical leadership in all aspects of our society, including the state and business. We believe that naturally, this will reduce corruption, or at the very least, galvanize public support for anticorruption initiatives.

We are also targeting the education system and learners of all ages, including the very young ones. In addition to the fact that the young ones are tomorrow's leaders, it has become clear to me and my team that the young ones can begin to make a difference today. A visit recent to Laudium High School supports this view. Firstly, my office had already received a selfless complaint from a ten year old learner from this school regarding the story of a Tembisa child that had lost her legs allegedly through hospital negligence. When we visited, the ethical governance questions asked by the learners at Laudium High school demonstrated that the young ones are not only capable of making a difference but many already are through conversations on ethical questions facing our society.

You may also recall the case of a young model who proudly tweeted about bribing a traffic officer but retracted within ours due to overwhelming disapproval of her corrupt action.

What else can civil society, particularly the business sector do? Firstly we must say no to tenderpreneurship. The *On the Point of Tenders* report shocked me and my team with the reality that there are paper companies that are only created as vehicles for tenders. Apart from the vulnerability to corruption that such companies pose, there is also the reality that they are not sustainable and therefore not in line with our national goals regarding sustainable economic development. Government needs to look very closely at this phenomenon. It seems to me that

this is an economic bubble that can burst at any time leading to unemployment and related maladies in addition to the corruption risks.

Clearly the issue of ethical governance should be at the center of our values change drive. This should not only be about respecting public resources, but also about treating people fairly and justly. The two are interrelated. If you respect and value people and people's dignity, you will not bill for service not delivered or for shoddy service given to Gogo Dlamini as we have seen under the RDP programme.

Ethical conduct should not be confined to state action and must extend to sustainable business practices, families and communities. As was the case with the Laudium learners, children should be taught at a young age about right and wrong, including earning a decent living and not living off other people's pain.

We need to open our eyes to the link between corruption and the failure to achieve responsive service delivery, be it in the public or private sectors. We need to ask ourselves where would we be as a country had we not had public coffers milked of billions of rand through corrupt practices? Wouldn't the Census have come out with more good news? Wouldn't we have been confident that we will meet the Millennium Development Goals?

The second issue that we need to start taking seriously is the need for an active society that participates in matters of national interest. Public participation is, however, impossible when the nation, particularly the poor who stand at the receiving end of service failure does not know how government functions.

It is important that people take a keen interest in understanding how government works. This will allow them to know how their money is being spent, how it should be spent. As a result, people will be able to tell if they are taken for a ride and they will be in a position to exact accountability on those who use entrusted power for their own interests. A knowledgeable public is a powerful one because it cannot be deceived by the greedy.

Thirdly, concepts such as ethical governance and good governance need are not confined to rooms such as this one. A layman in the street, pupils in schools and ordinary people of Marikana are part of the dialogue.

This way, our people cannot be used by those guilty of ethical and conduct failure for protection. We have often seen that when those who have been caught with their hands in the cookie jar are being taken to task, they mobilize the very victims of their corrupt dealings to protect them, turning the tables on those who are trying to ensure that resources are used for the benefit of the poor.

The fourth point is to ensure that those that treat people badly, particularly those that rob the poor, lose face. The strength of our moral fiber is tested when embarrassment does not shake us an inch.

The fifth point is, as I indicated earlier, the need to instill these ideals in young minds. We need to teach our children at a young age to be able to distinguish between right and wrong. Wrong must be deservedly bedeviled. They must know at a young age the consequences of putting one's selfish interests first at the expense of the poor.

Lastly, people must be ready to report corruption when they witness it or suspect that it is

happening. Report it to the Public Protector, report it to the Auditor General, and report it to the police. Don't turn a blind eye .Say something and do something.

The crux of my message is that, all of us –men and women, young and old, the learned and the illiterate- have a responsibility to help steer our society to fit the character of the one envisioned in the Constitution.

We need to all play our part in our respective and unique ways to flush out corrupt acts –no matter how big or small- from our society. We need a united front in pursuit of clean governance. The key to fighting corruption effectively does not lie in lone crusades by integrity sector institutions such as the Public Protector, Auditor General or SIU. The key to combatting corruption lies in a national quest for ethical leadership and steward service in all sectors of society. Let us all light a candle for ethical leadership and governance in all sectors of our beautiful nation. If we do so we will make an effective contribution to public accountability, integrity and responsiveness.

Thank you.

**Adv. Thuli Madonsela**

**Public Protector of the Republic of South Africa**