



Address by Public Protector Adv Thuli Madonsela during the School Empowerment Conference on Tuesday, February 8, 2011 at Spring Civic Centre in Johannesburg, Gauteng.

**Programme Director;
Officials from the National and Provincial Department of Education;
School principals;
Librarians;
Educators;
Ladies and gentlemen;**

I am honoured by the opportunity to address this important gathering of people playing a critical role in shaping our values as a society and our development as a nation.

Education is not only a cornerstone of every society, it's also the foundation of each person's life. That is why people like for President Nelson Mandela have devoted their lives to create a world in which each child gets equal access to quality education

Most of you will certainly remember how Mandela captured the imagination of the world when he insightfully noted that: "Education is the most powerful weapon that you can use to change the world."

That is why the architects of constitutional democracy enshrined the right to education in our Bill of Rights. Section 29 (1) (a) of the Constitution of the Republic of South Africa stipulates that "everyone has the right to education, including adult basic education."

Clearly this places a responsibility on the state to make education available and accessible to all by, among other things, delivering adequate school infrastructure, providing learners with learning material, recruiting capable and sufficient human and ensuring an environment conducive to productive learning.

You are most likely to agree with me that a lot of effort has been made by government since 1994 to give effect to the right to education. This is demonstrated by, among other things, the annual expenditure on education and attempts to equalise the distribution of resources. However, there are a few cases that may have resulted in a few people people's right to education being negatively affected. Later in my speech, I will cite a few of the cases that my office dealt with in the last two years.

For now, Programme Director, allow me to quickly share with the house a bit about what the Public Protector is, what this institution does and how it can be of help in as far as giving effect to the right to education is concerned.

My office established that most people still do not know what the Public Protector is and what the Public Protector does. My biggest concern is that young people between the ages of 16 and 23 seems to be worse in this case.

Section 182 (4) of the Constitution requires the Public Protector to be accessible to all persons and communities. To this end, we have embarked on a drive to reach at least two thirds of the 49 million people in this country. It is worrying that our young people, who live in the information age, are not aware of the existence of this and other institutions that seek to mediate power between the state and the citizens.

My view is that, as early as in primary school, learners ought to be taught that there are institutions like the police, courts and constitutional institutions such as the Public Protector and what such bodies can help with.

Programme Director;

The Public Protector was established by the Constitution. It is one of the institutions we refer to as institutions supporting democracy. Each of these institutions plays a distinct and unique role in supporting and strengthening constitutional democracy.

The Public Protector is an independent constitutional officer. He/she is subject only to the Constitution and the law. The Public Protector must be impartial and exercise his/her powers and perform his/her functions without fear, favour or prejudice.

The Public Protector is accountable to the National Assembly and must report on activities and performance of functions to the Assembly at least once a year. No person or organ of state may interfere with the functioning of the Public Protector.

The Public Protector is mandated by the Constitution and national legislation to investigate any conduct in state affairs or in the public administration in any sphere of government that is alleged or suspected to be improper or to result in any impropriety or prejudice; to report on that conduct; and to take appropriate remedial action.

There are two key pieces of legislation that regulate the operations of the Public Protector. These are the Public Protector Act of 1994, and the Executive Members Ethics Act. The powers under the Public Protector Act cover the conduct of all public authorities except court decisions. The Executive Members Ethics Act empowers the Public Protector to investigate all allegations of violations of the Act and Code by the members of the executive, that is Ministers, Premiers, MECs etc. Other legislation which include the Prevention and Combating of Corrupt Activities Act and the Protected Disclosures Act also recognise the role of the Public Protector with regard to investigating state action.

This means anyone can approach the Public Protector anytime they have a complaint regarding improper or prejudicial conduct of an organ of state or public official or public office bearer. Even if it is not a complaint but information or an allegation of impropriety, you may still approach the Public Protector.

It is important to remember that anything outside of the public sector and decisions of courts are off limits. Secondly, the services are free. Your complaint or allegation will be investigated with a view to establishing if the conduct in question was indeed improper or prejudicial. My office may decide to mediate, conciliate or negotiate to resolve the complaint. At all given times, it is important to us that justice is served.

This brings me to examples of the education matters that my office has dealt with. Over the last couple of years, my office has deal with cases such as:

- Alleged undue delay by the Western Cape Department of Education to assist after half of the Duneside Primary School building was closed due to vandalism, resulting in a drop in the enrolment of learners among other things;
- Alleged failure by the Eastern Cape Department of Education to provide additional classrooms and sanitation facilities for Ntekelelo Junior Secondary School;
- Alleged refusal by Chapel Street Primary School and its Governing Body to remunerate a temporary (teacher) employee for services rendered;
- Alleged refusal by the Milnerton High School in Cape Town, Western Cape to admit a learner;
- Alleged improper suspension of an educator's salary by the Mpumalanga Department of Education; and
- Alleged undue delays in processing payment for relief teaching services by the North West Department of Education.

Clearly these cases do not provide for an environment that is conducive to learning. Unpaid teachers cannot be productive, refusing a learner admission to school amounts to a violation of the learner's right to education and inadequate or unsafe classrooms, which result in overcrowding are not going to produce the kind of learners that will take the country forward.

In all the cases I have cited, we found that the complaints had merit and the remedial action taken sought to redress the prejudice suffered by complainants.

As I draw towards conclusion, I would like to urge all of you who are here to spread the word about the Public Protector's services so that all the people who sit at home hopeless and not knowing where to turn for help can approach my office.

We have about 20 offices spread across the country and we can also be reached on our toll-free line 0800 11 20 40 or our website www.publicprotector.org .

We promise to strive to be accessible and trustworthy and provide prompt remedial action while promoting good governance in all state affairs. This means we will bring our service to your doorstep, resolve your complaints speedily while ensuring that the failures of the state do not recur.

I would like to emphasised that in calling the state to account for its acts and omissions, I have a responsibility not only to check if the state's conduct was lawful but to also establish if it was proper. I have to ascertain that there was just administrative action and all round good administration.

This is the way in which my office can play a role to ensure that the people of this country turn education into a powerful weapon that they can use to change the world.

Thank you.

Adv TN Madonsela
Public Protector of South Africa