



**Address by Public Protector South Africa Outreach, Education and
Communications Executive Manager Mr Momelezi Kula at the Heritage
Month Commemoration in Kuruman, Northern Cape on 22 September
2011**

Thursday, 22 September 2011

**Programme Director Mr M Weldebees
Kgosi PP Toto of Batlharo Ba Ga-Motlhwane Tribal Council
Kgosi Dioka of the Batlharo Ba Ga-Phadima
Kgosi PS Bareki of the Ga-Bareki Tribal Council
Kgosi KE Jantjie of the Ba Ga-Jantjie Tribal Council
Kgosi BD Phetlhu of the Ba Ga-Phetlha Tribal Council
Mayor of the Gasegonyana Municipality Cllr Gibson Anthony
Honourable Councillors
Public Protector Provincial Rep Mr Botromia Sithole
Distinguished guests
Members of the media and public in general
All protocols observed**

Dumelang baagi ba Batlharos!

I bring along warm greetings from Public Protector Adv Thuli Madonsela, who could not be here with us to commemorate Heritage Month with us here today due to matters beyond her control. The entire team of the Public Protector South Africa also sends its regards.

It is indeed an honour and privilege to share this important day with you. I must also express gratitude to all of you for taking time off your planned activities to honour our invite.

This gesture goes to show how seriously you regard the Public Protector. It means a lot to us because as members of the community, you are one of the valuable stakeholders of this constitutional institution. Thank you very much for coming.

Moments after taking oath of office to lead what was then a newly-realised democratic South Africa some 17 years ago, former President and world renowned humanitarian Nelson Mandela had the following to say:

"We enter into a covenant that we shall build a society in which all South Africans, both black

and white, will be able to walk tall, without any fear in their hearts, assured of their inalienable right to human dignity – a rainbow nation at peace with itself and the world.”

Throughout the course of his term of office and beyond, President Mandela would continue to use the brand of a “rainbow nation” in reference to the people of South Africa in a profound bid to encapsulate their diverse heritage.

Indeed this diversity makes us a unique nation. It stretches from our varied cultures, customs and traditions to our history and languages. We inherited all these from our forerunners, on whose shoulders we proudly stand today.

Of course our heritage is not only limited to these intangibles. The legacy of our physical artifacts such as monuments, landscapes and buildings, form a cornerstone of our heritage as the people.

One of such sites is Taung, a stone’s throw from here, where fossil bones of our ancestors were discovered many decades ago, setting off worldwide research into the origins of humankind.

Realising the strong need to preserve this rich inheritance for the benefit of future generations, particularly for these generations to be able to lay claim on their identity, an annual celebration of our heritage was necessary.

As we all know, 24 September was then identified for this course. As such this day will again be observed on Saturday, with the national event taking place in Mpumalanga.

Programme Director;

Enshrined in Chapter 2 of our Constitution, which ranks as one of the most progressive in the world, is the Bill of Rights.

This Bill of Rights guarantees the citizens of South Africa the rights to freedom of belief, language and culture, among many other things. These are some of the things that go to the heart of celebrating one’s cultural heritage.

In terms of these provisions of the Constitution, persons belonging to cultural or linguistic communities may not be denied the right to enjoy their culture and use their languages and to form, join and maintain cultural and linguistic associations and other organs of civil society. We also enjoy freedom of belief.

The state has got a constitutional responsibility to ensure that every South African enjoys these rights. But history has shown that this is not always the case. What recourse then do ordinary people facing such disregard for their constitutional rights have to find justice?

This is where the Public Protector comes in. Some of you may be hearing about this office for the first time. I will briefly touch on what this office is, what it does, how it can be of help to you and how to access it.

But before that let me tell you a story of how the Public Protector helped an Eastern Cape woman, who was experiencing a problem with her municipality in relation to her language.

Ms M approached the Public Protector a couple of years back alleging that the Matzikana Local

Municipality in the Eastern Cape continued communicating exclusively in Afrikaans despite her insistence that she would prefer written communication in either isiXhosa or English, leaving her feeling marginalised.

She complained that the Municipality had failed to develop a language policy that would treat isiXhosa and English equitably as some of the other spoken official languages in the area.

The Municipality, Ms M complained, had failed to take practical and positive measures to elevate the status of isiXhosa and advance the use of the language despite the command of the country's Constitution.

As a result the Municipality marginalised isiXhosa-speakers and failed to employ sufficient Xhosa-speaking officials within its ranks, hampering its ability to promote the use of the language within its area of jurisdiction, she said.

When her plea to the Municipality to consider official communication in a language she understands fell on deaf ears, Ms M turned to the Public Protector for help.

During the investigation by the Public Protector, it was observed that while Afrikaans was the predominant language used by residents of the Municipality, other non Afrikaans-speaking South Africans had moved to the area.

The investigation found that the Municipality had failed to develop a language policy despite the obvious need to do so. Since 2005, it had failed to address the issue of equitable language usage.

Following the investigation, the Public Protector directed that the Municipality develop a comprehensive language policy in consultation with its residents and PAN South African Language Board.

The remedial action was also that the Municipality ensure that its staff complement is composed of officials who are proficient to serve in isiXhosa and English to reflect the demographics of its communities.

The Public Protector further told the Municipality that all official languages must enjoy parity of esteem, must be treated equitably and these changes must be effected through a binding council resolution and must be reflected in the Integrated Development Plan document.

This is but one of the many cases in which the Public Protector helps people to enjoy their constitutionally guaranteed rights. But some of you may be wondering: Who or what is this Public Protector?

Ladies and gentlemen;

Chapter 9 of the Constitution establishes the Public Protector to support and strengthen constitutional democracy.

Section 182(1) of the Constitution specifically places a responsibility on the Public Protector to investigate any conduct in state affairs or the public administration that is alleged to be improper or prejudicial, to report on that conduct and to take appropriate remedial action. The scope covers all three spheres of government and state entities such as ESKOM, SABC, TELKOM

and Water Boards.

The only matters in state affairs that are excluded from the Public Protector's scrutiny are court decisions. Section 182 further enjoins the Public Protector to be accessible to all persons and communities. The Constitution further creates space for additional powers that may be conferred by legislation.

The Public Protector has six key mandate areas that can be discerned from 16 key pieces of legislation that provide further powers or regulate the office's work in pursuit of section 182(2) of the Constitution.

The first key mandate area is the power to redress maladministration within state affairs and the public administration. However, the Public Protector Act 23 of 1994, which regulates this mandate goes beyond service failure and requires the public protector to deal with conduct failure, including abuse of power and abuse of state resources. The powers under the Public Protector Act include the authority to resolve disputes or grievances against the state through mediation, conciliation, negotiation or any other means.

The second key mandate area is that of being the sole oversight agency on executive ethics as regulated by the Executive Members' Ethic Act of 1998 and the Ethic Code. In terms of these, the Public Protector is empowered to investigate the conduct of the Executive. This includes the President, Ministers, Deputy Ministers, Premiers and MECs. Unlike the Public Protector Act, this Act makes provision for complaints to be lodged only by the President, Premiers, Members of Parliament and Members of Provincial Legislatures.

The third and shared key mandate area involves acting as an anti corruption enforcement agency under the Prevention and Combating of Corrupt Activities Act 12 of 2004.

The fourth key mandate area positions the Public Protector as one of two key agencies to receive protected disclosures from whistle-blowers under the Protected Disclosures Act 26 of 2000. This mandate complements the mandate under the Prevention and Combating of Corrupt Activities Act.

The fifth mandate, which is another shared mandate, involves the power to resolve disputes regarding information requests under the Promotion of Access to Information Act (PAIA).

The sixth mandate area involves the power to review the decisions of the Home Builders Registration Council as envisaged in section 22(4) of the Housing Protection Measures Act 95 of 1998.

Other than in cases under the Executive Member's Ethics Act, anyone can lodge a complaint with the Public Protector against any organ of state. The complainant need not be a victim of the alleged improper conduct or maladministration.

Complaints can be lodged at any of our 20 walk-in offices across the country; in writing; telephonically (Toll free line: 0800 11 20 40); online (www.publicprotector.org); or at any of our mobile or outreach clinics that are held regularly at identified spots across the country. It is also important to note that to investigate, we need not necessarily receive a complaint. Of course complaints need not be limited to issues of heritage only. We deal with a lot of service delivery and conduct failure matters on a daily basis. People complain to us about RDP houses, social grants, identity documents and so forth.

We have a double-pronged approach to investigations. We promptly resolve each specific complaint, ensuring redress where appropriate while investing efforts in fixing the systemic deficiencies within the state with a view to curb a recurrence. Where there is service failure, our systemic solutions also incorporate correcting complaints handling arrangements of organs of state involved.

In taking appropriate remedial action, we are informed by the view that it is not enough for organs of state to simply provide the service that was delayed or denied before our office stepped in. Our view is that remedial action should bring the complainant as close as possible to where they would have been had the state acted properly. One of the ways to achieve this is financial compensation. At times a simple apology suffices.

Also worth noting is the fact that our services are free and the Public Protector is constitutionally obliged to investigate matters without fear, favour or prejudice and that she is independent and subject only to the Constitution and the law.

We have made three promises to the people of South Africa. These are:

- to be accessible to and trusted by all persons and communities;
- to provide prompt remedial action; and
- to promote good governance in the conduct of all state affairs.

Prompt remedial action is particularly important in “bread and butter” matters. In fact, most of the complaints that fall under this category are resolved from within hours to three months through our Early Resolution mechanisms.

In dealing with your complaints, we have employed a set of values, with which we seek to ensure customer satisfaction. These include Independence and Impartiality, Human Dignity, Equality, Ubuntu, Redress, Accountability, Integrity, Responsiveness, Transparency, and Justice and Fairness.

As I draw to my conclusion, Programme Director, I would like to urge you go and spread the word about this constitutional office and the services it provides.

The more people know about this the more they will get to enjoy their constitutional rights because they will know exactly where to go when their rights are being trampled upon, especially if the state is the culprit.

We therefore call on you to make use of the justice avenue to ensure that your rights are not disregarded. You can trust this office with your complaints.

On behalf of the Public Protector, I would like to wish you a wonderful Heritage Day this Saturday.

Thank you.