



**Address by Public Protector Adv Thuli Madonsela on the occasion of
an outreach clinic at Bungheni Community Hall in Makhado, Limpopo**

24 March 2010

**Programme Director,
Councillors,
Community Leaders,
Members of the media,
Provincial Representative of the Public Protector in Limpopo; Adv Sphelo Hamilton
Samuel,
Ladies and gentlemen,
All protocol observed;**

Let me to seize this opportunity to extend my warmest greetings to the people of Makhado and neighbouring areas. As one of our valued stakeholders, your presence here means a lot to us.

Before I go any further, Programme Director, allow me to recognise the fact that our meeting this morning comes only three days after our country took time off to commemorate one of the most important days in our calendar, March 21, better known as the Human Rights Day.

On that day, we remembered the 69 people who lost their lives and a further 180 who sustained injuries when apartheid security forces opened fire on unarmed and peaceful protestors, who were marching against pass laws in Sharpsville, Gauteng 50 years ago.

It was this and many other watershed moments that paved the way for the constitutional democracy we all enjoy today.

In fact, it was in Sharpsville, 36 years after the massacre, where South Africa's Constitution, signed by the country's first democratically-elected president, the iconic Nelson Mandela, was symbolically launched.

Ladies and gentlemen, it was this very Constitution that established institutions such as the Public Protector to support and strengthen our hard-earned constitutional democracy.

Programme Director;

Our meeting this morning is part of a nearly two-month long stakeholder consultative process, which began in Gauteng during the second week of February.

Since then, I have been spending up to two days in provinces, meeting stakeholders such as provincial administrations, local government, political parties, other Chapter 9 institutions, traditional authorities, statutory bodies, state-owned enterprises, the media, professional bodies, trade unions and other civil society entities. I also met with communities like you.

The purpose of my meetings with stakeholders is to introduce myself; find out from stakeholders what do they expect from the Public Protector; and establish whether or not our internal interpretation of the constitutional mandate of the Public Protector is the same as that of stakeholders. I have also been asking stakeholders to comment on a draft vision of what we seek to achieve as the Public Protector over the next ten years.

In a meeting such as the one we are having today, where I interact directly with communities, the focus is slightly different. Our focal point is on the services of the Public Protector. This we do in a bid to see to it that your human rights are not disregarded.

As I stand here today, I am aware that most of you know all about the Public Protector. However, for the benefit of one or two people in our midst, who may be hearing about this institution for the first time, I will briefly outline what is the Public Protector and what this institution does so that we can all understand how it supports and strengthens this constitutional democracy.

As I have already mentioned, the Public Protector was established by the Constitution. It is one of several institutions established by Chapter 9 of the Constitution to support and strengthen constitutional democracy. We ordinarily refer to these institutions as Chapter 9 Institutions. However, each of these institutions plays a distinct and unique role in supporting and strengthening constitutional democracy.

Like all Chapter 9 institutions, the Public Protector is independent and subject only to the Constitution and the law. The Public Protector is independent of government and political parties and must be impartial and exercise its powers without fear, favour or prejudice.

Accountable to the National Assembly, the Public protector must report on activities and performance of its 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 that is alleged or suspected to be improper or to result in any impropriety or prejudice and to report on that conduct and 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 anti corruption legislation and the Protected Disclosures Act also recognise the role of the Public Protector with regard to investigating state action.

This means you can approach the Public Protector anytime you have a complaint regarding improper or prejudicial conduct of an organ of state or public official or public office bearer.

A lot of improper conduct by the state invariably violates or undermines human rights. For example, we get complaints about delayed processing of applications for identity documents (IDs), passports, birth certificates, social grants and low cost housing, among other things.

One may ask how these negatively affect one's human rights. They do in many ways. For example, your socio-economic rights are undermined when you cannot get your due pension payout or benefit from various social grants including old age, disability and foster care grants, among others. Also, without your ID, getting employment is a struggle and getting registered for education is not possible. Your rights to freedom of movement and citizenship, among others, will also be severely affected.

Already, most of the 1600 complaints we receive annually from residents of this province relate to the services I have just mentioned.

However, regarding housing, I am informed that the provincial government has, during the 2009/10 financial year, delivered more than 16 400 low cost houses.

In his recent state of the province address, Premier Cassel Mathale, reported that the number of houses delivered was in excess of the set target of 13 978. This is positive but we will continue to attend to complaints relating to housing delivery.

As you prepare to lodge a complaint with the Public Protector, you need to be aware that the Public Protector cannot help you if your problem involves anything outside of the public sector or concerns decisions of courts.

This does not mean if you approach the Public Protector with a matter that is outside our ambit, you will be turned away. We have a professional staff complement that will refer you to appropriate redress institutions that will help you accordingly.

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. And most importantly, our services come free of charge!

In the past we focused a lot on the investigative powers. While continuing to use and even improving the depth of our investigations, we have consciously decided to harness the full powers of the Public Protector.

Starting from the fiscal year 2010/11, we will be exhausting all the powers given to us by law to resolve your complaints in a manner that ensures justice. These include mediating, conciliating and negotiating in order to resolve your complaint.

Another area where we have committed ourselves to improve is that of turnaround times. Never again shall you wait for a year to be told what is delaying your pension payout, social grant or any other service. We will use our power to subpoena if need be. We have also introduced an early resolution mechanism to ensure that uncomplicated urgent matters are resolved within weeks.

We are also planning to deepen the rigour of our investigations to ensure that improper conduct does not go unsanctioned simply because we could not dig deeper. To achieve this we are

strengthening our specialisation arrangements. This includes separating simple and urgent matters from complex ones.

We are also revisiting our investigation and dispute resolution methods, incorporating more alternative dispute resolution means and strengthening our forensic capabilities.

Our efforts towards improving good governance continue. In addition to systemic investigations, we will be engaging in systemic interventions to ensure that government serves all people with accountability, integrity and responsiveness. Systemic interventions seek to respond to systemic malfunctions that breed poor service delivery and improper or prejudicial conduct.

The Public Protector is also specifically instructed by the Constitution to be accessible to all persons and communities. We have always tried to be accessible, through outreach, expansion of offices to provinces and regions within provinces and through using accessible language. We only have one office in this province, which is located in Polokwane.

However, we will continue to make use of the municipal and traditional authorities' facilities, which have been made available to our outreach facilitators in order to reach more people. I would like to express my appreciation to these institutions for their assistance.

We plan to do even more to enhance our accessibility. Our initiatives include expanded awareness and outreach activities, which will include a Public Protector Access to Good Governance and the use of stakeholder avenues to reach our people.

In conclusion, I would like to urge all of you to tell us your needs so that we can be of better assistance to you. I also call on you to spread the word about the existence of this noble institution so that we help more people who are in distress as a result of poor delivery and serves and untoward conduct by the state.

With regard to any complaints or allegations you may have at this moment, our mobile service is right here at the back of this hall. Please approach the desks and our investigators will help you lodge your complaints.

On a day-today basis you may approach the Public Protector through our toll free line, postal mail and website or visit one of our offices. Contact details are available on the information leaflets distributed at the desks I have just referred to.

Thank you.

Adv TN Madonsela