



**Address by Public Protector Adv Thuli Madonsela during the commemoration of Human Rights Month at Phokeng Conference Centre in Rustenburg, North West on Thursday, March 24, 2011.**

**Programme Director;  
Executive Mayor of the Rustenburg Local Municipality, Cllr J Nyathi;  
Speaker of the Rustenburg Local Municipality, Cllr S Mabale-Huma  
Representative of the Human Rights Commission, Ms T Letsike  
The Public Protector Team;  
Members of the media;  
Ladies and gentlemen**

It is such an honour for me to address this important event.

A few days ago, on 21 March, South Africa commemorated the National Human Rights Day, one of the very important days in the calendar of the country. A number of events related to this day were held around the country with the main event held at Athlone Stadium in Cape Town.

Elsewhere in the world, the international community commemorated the International Day for the Elimination of Racial Discrimination, a day proclaimed by the General Assembly of the United Nation in 1966, calling for the elimination of all forms of racial discrimination.

As we all know, March 21 is observed annually to pay tribute to the 69 people who tragically lost their lives in Sharpsville in 1960 after being mowed down by security forces of the erstwhile apartheid government.

Those people were protesting against the oppressive pass laws of that government. All they wanted was freedom and human dignity.

Fifty one years on we enjoy the freedom that allows us to move around the country without carrying "pass books" and without boundaries within the borders of our own land. This is all thanks to sacrifices those people made all those years ago.

It is also because of our constitutional democracy and Human Rights as enshrined in the Bill of Rights of our Constitution, one of the most progressive in the world.

In remembrance of those heroes and heroines, we need to work hard towards the promotion, protection, development, respect and attainment of Human Rights in our country.

Our commemoration of this month, though, will be especially focused on the rights of our young ones under the theme: “The Public Protector and the Realisation of Child Rights in South Africa.”

The decision to focus on the rights of children was influenced by the kind of complaints my office gets, relating to or affecting children.

As the Public Protector South Africa, we strongly believe in the protection of vulnerable members of our society and these include children. When children are not protected and their Human Rights are trampled upon by organs of state or where competent organs of state neglect their duty to prevent or redress the violation of the rights of children, the Public Protector has the responsibility to act.

The questions that immediately spring to mind are who is this Public Protector and what does she/he do? What powers does the Public Protector have and when and how does she/he get involved? How can the Public Protector be accessed?

Let us start with the constitutional mandate of my office.

The Public Protector is established under Chapter 9 of the Constitution to support and strengthen constitutional democracy. Section 182 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 in that conduct and to take appropriate remedial action.

The Constitution states that I have additional powers granted by national legislation to use mediation, conciliation, negotiation or any other means to resolve or rectify disputes or grievances against the state. I am further required, in the event I investigate, to make a finding or express a view or make a recommendation.

Two key pieces of legislation are central to the Public Protector mandate. These are the Public Protector Act 23 of 1994 (PPA) and the Executive Members’ Ethics Act of 1998 (EMEA). The PPA gives me broad powers to investigate the conduct of and rectify maladministration and abuse of resources by the state. This includes all the three layers of government, parastatals and entities in which the state holds a majority share.

Anyone can lodge a complaint with me against any of these organs of state and I will investigate provided that the matter is not older than two years. However, the Act gives me a discretion to investigate cases older than two years if I feel that there are compelling reasons to do so.

The EMEA on the other hand gives me powers to investigate the conduct of the Executive. This includes the President, Ministers, Premiers and MECs. Unlike the PPA, this Act makes provision for complaints to be lodged by Members of Parliament and Legislatures only and that the investigation should not last longer than 30 days, with the report thereof submitted to the President.

There are other pieces of legislation that give me powers to execute my mandate. These include the Protected Disclosures Act, the Prevention and Combating of Corrupt Activities Act and the Promotion of Access to Information Act, among others.

It is important to mention that I cannot investigate private persons and entities as well as court decisions. Also worth noting is the fact that my services are free and I am constitutionally obliged to investigate matters without fear, favour or prejudice and that I am independent and subject only to the Constitution and the law.

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

1. to be accessible to and trusted by all persons and communities;
2. to provide prompt remedial action; and
3. 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.

Programme Director;

Section 28 of the constitution, which deals with children's rights, among other things, states that every child has the right to:

- A name and nationality from birth;
- Family care or parental care or appropriate alternative care when removed from the family environment;
- Basic nutrition, shelter, basic health care services and social services;
- Be protected from maltreatment, neglect, abuse or degradation;
- Be protected from exploitive labour practices; and
- Not to be required or permitted to perform work or provide services that are inappropriate for a person or that child's age or place the child's well-being, education, physical or mental health or spiritual, moral or social development at risk.

However, my office does not compete with the Human Rights Commission. We deal with those matters when human rights are trampled through maladministration, abuse of state resources or improper conduct in state affairs. Sometimes we refer matters to the SAHRC or another competent oversight body.

As I have already mentioned, we have in the past received complaints about matters relating to or affecting children including social grants, among other things.

Another matter that has been of great concern for me is the situation of stateless children in South Africa. These are children born to parents who are illegal citizens of the country, immigrants or asylum seekers.

The challenge with such children is that one often finds that their parents have passed on, leaving them orphaned. And because they are undocumented, they cannot access socio economic benefits such as social security, health care, education and so forth.

My office had kick-started a systemic investigation with a view to root for the protection of these children's rights. However, in the early stages of that project we learned that the Department of Home Affairs (DHA) was attending to that problem.

We are now engaging the DHA on the outcome of their intervention, which includes amending legislation on Children's Rights in order to factor-in the rights of these children.

One of our concerns is the children whose parents are still alive and illegally reside in the country. The DHA has, since late last year, been involved in regularising undocumented immigrants in the country. We hope that that process will also alleviate the problem.

Programme Director;

I would like to call on communities not to hesitate to report any suspected disregard for children's rights by competent organs of state such as the Department of Social Development, the South African Social Security Agency, the police, the DHA, schools and hospitals or clinics, among others.

In the event, you do not get joy from these institutions; my office will be there to assist you. Even right now, if you have complaints about government services or conduct, you can lodge it with my investigators at the back of this hall as soon as the programme is completed.

My office gets involved when organs of state disregard people's rights. I come into the picture when competent organs of state fail to give the public the assistance they ought to provide or when they carry out their functions in a manner that prejudices people or constitutes abuse of power. This usually involves service delayed or service denied. Occasionally, we deal with conduct failure, including corruption.

We have 20 walk-in offices across the country, a toll free number (0800 11 20 40), a website ( [www.publicprotector.org](http://www.publicprotector.org) ) and email address ( [registration2@pprotect.org](mailto:registration2@pprotect.org) ), mobile offices, as well as outreach clinics which are held at identified spots, all this is in an effort to bring this important service closer to your door step. These services helps us be accessible to all persons and communities as envisaged in Section 182 (4) of the Constitution.

As I draw towards my conclusion, I urge communities to report any complaints about government services or conduct to my office. This includes any suspected corrupt activities and other forms of maladministration.

Of course our ultimate goal is to strengthen constitutional democracy by promoting good governance, adherence to human rights and respect for the rule of law. This will help us realise

our ideal of an accountable state that operates with the highest level of integrity while being responsive to the needs of all its people, including the children.

When the people complain, it is the responsibility of the state to listen, to account for its actions and to promptly rectify the problem. My role is therefore to ensure that this happens. However, at the end of the day, the affected citizen must be satisfied and there must be measures put in place to ensure that the problem does not recur. That is why my office has a two-pronged approach. We rectify each specific wrong of the state while effecting systemic transformation to promote good governance by ensuring that the state fixes its systems. The idea is to ensure that the state consistently gets things right and when the people complain, their complaints are addressed promptly and responsively.

As President Jacob Zuma told the thousands who converged at Athlone stadium on Monday:

*“We want a South Africa where hospitals and clinics have adequate medicines, doctors, nurses and other professionals. We must work together towards a country where there is access to water, sanitation, electricity, good roads and recreational facilities.”*

President Zuma, was echoing the sentiments of Chief Justice Sandile Ngcobo, who went further last week while addressing African Ombudsman and Mediators. The Chief Justice noted that the importance of the role of Ombudsman Institution or the Public Protector was *“especially clear in many countries throughout Africa, where there was often a desperate need for basic human needs such as food, drinking water, health care, housing, education and social security.”*

As I conclude, I would like to extend an invitation to you as communities and important institutions in society such as schools to partner with us to raise awareness about the existence of my office and the services it offers. This is in line with the Public Protector’s constitutional responsibility to be accessible to all persons and communities.

It is important that people know where to find help and not suffer in silence. We know that some of you cannot afford attorneys to help you take the state to court and free services such as the Public Protector are here for you.

On that note, I call on you to help us take the Public Protector to more people. We particularly urge schools not only to help us protect the rights of children but also to promote awareness about and access to the services of the Public Protector.

Thank you

**Adv T.N Madonsela**  
**Public Protector of the Republic of South Africa**