



Address by Public Protector Adv. Busisiwe Mkhwebane during the commemoration of the National Heritage Month at Mbazwana Arts Center in Umhlabuyalingana, KwaZulu-Natal on Thursday, September 28, 2017.

**Chairperson of the Local House of Traditional Leaders;
Umkhanyakude District, Inkosi Z T Gumede
Inkosi N I Zikhali of Mbila Traditional Council
Mayors, Deputy Mayors, Speakers, Chief Whips and Councillors of:
Umkhanyakude District Municipality;
Umhlabuyalingana Local Municipality;
Jozini Local Municipality;
Mtubatuba Local Municipality; and
Big 5 Hlabisa Local Municipality
Municipal managers;
Public Protector Team;
Members of the media;
Distinguished guests;
Ladies and gentlemen**

I bring you warm greetings from the Public Protector Team across the country this morning.

We would like to express our sincerest appreciation for your presence here today as we join the rest of the country in the commemoration of Heritage Month.

You will recall that the celebrations of Heritage Day or, in this instance, Heritage Month, have their origins in this province.

Long before it was declared a public holiday and renamed Heritage Day, September 24 was known in this part of South Africa as Shaka Day.

It was a day set aside by the people of this part of the country to pay tribute to the great king of the Zulu nation, Shaka, who is revered for his role in uniting the Zulu people into the great nation that they are today.

Only at the dawn of our democracy was it decided that, in addition to it being a public holiday, the day must be renamed Heritage Day for inclusivity.

We have celebrated it ever since, the latest of such celebrations having occurred this past weekend, in Siyabuswa, Mpumalanga.

As the Public Protector South Africa, we could not have chosen a more suited province in which to celebrate this month.

KwaZulu-Natal is one of the provinces in which the culture and traditions of indigenous people are still preserved and form an important part of everyday life.

A few weeks back, not far from here, in Nongoma, the world watched as thousands of maidens flocked into the town to take part in the 33rd annual edition of the *Umkhosi Womhlanga* ceremony, also known as the Reed Dance.

Until recently when legal disputes resulted in its suspension, the *ukweshwama* ceremony or the festival of the first fruits, which incorporates the bare-handed killing of a bull by young men, was among the biggest cultural events on the local calendar.

AmaZulu's admirable love for their culture is not limited to these events. We all know how they jealously guard their language and speak it proudly among themselves and with people from other ethnic groups. We also know how proud they are of their traditional cuisine.

In an age where Western culture has, in some ways, become a way of life, with most African customs and traditions at a risk of total extinction, the indigenous people of this province must be commended for leading the way in preserving our heritage.

We learn from them that it is in times like these that we ought to remain true to our roots, for without our heritage we will lose our identity.

Theirs and the rest of us' rights to practice our customs and traditions are enshrined in the Bill of Rights, which is the cornerstone of our Constitution. Under section 30 thereof, we all have the right to use the language and take part in cultural life of our choice.

Section 31 goes further to grant people belonging to a cultural, religious or linguistic community the right to enjoy their culture, practice their religion and use their language.

Since the beginning of this month, and mainly over the past weekend, we have seen indigenous people proudly garbed in their traditional garments essentially to mark the celebrations of their heritage.

Let this not happen only in September because we are Bapedi, Basotho, Batswana, AmaSwati, VhaVenda, AmaTsonga, Afrikaners, English, AmaNdebele, AmaXhosa and AmaZulu not once but throughout the year.

Programme Director,

We are not just here to celebrate Heritage Month. We use events of this nature to hit two birds with one stone. While on the one hand we celebrate our heritage, the occasion, on the other hand, provides an opportune moment for us to extend the services of the Public Protector to the people.

This forms part of our flagship outreach programme, which couples the commemoration of important national days such as Heritage Day with a mobile office service, where a community we have not visited before is identified for an information sharing session that is combined with an opportunity for service and conduct failure complaints to be brought to our attention.

For example, we held a similar event in Mothibistad, Northern Cape in June to mark Youth Month. Last month we were in Leeuwfontein, Limpopo to pay tribute to the courageous women of 1956 as part of Women's Month. This month is the turn of the people of Mbazwana and the Umhlabuyalingana municipal area at large.

Beginning the session with a brief talk on who we are; what we do; where do you find us; and why it is important for you to know all these has proven

on numerous occasions to be helpful as it lays the foundation for the subsequent engagement and registration of complaints. I will therefore continue on that path.

We are an independent constitutional institution that established by Section 181 of the Constitution to support constitutional democracy.

We get our powers from Section 182 of the Constitution, which provides that:

“182 (1) The Public Protector has the power, as regulated by national legislation –

(a) 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;

(b) To report on that conduct; and

(c) To take appropriate remedial action

(2) The Public Protector has the additional powers and functions prescribed by national legislation.

(3) The Public Protector may not investigate court decisions.

(4) The Public Protector must be accessible to all persons and communities.

(5) Any report issued by the Public Protector must be open to the public unless exceptional circumstances, to be determined in terms of national legislation, require that a report be kept confidential.”

As envisaged in Section 182(2), we have additional powers as prescribed by national legislation. Those powers are as follows:

1. Under the Public Protector Act, we have the power to investigate, conciliate, mediate, negotiate, advise or do anything necessary to

resolve disputes and rectify maladministration in state affairs and related matters, including abuse of power, abuse of state resources, unethical conduct and corruption on own initiative or complaints.

2. We have the power to investigate and report on violations of the Executive Ethics Code under the Executive Members' Ethics Act.
3. We have the power to investigate allegations of corrupt activities as envisaged under the Prevention and Combating of Corrupt Activities Act.
4. We also have the power to receive protected disclosures and serve as a safe haven for whistleblowers under the Protected Disclosures Act.
5. We further have the power to review the decisions of the National Home Builders Registration Council under the National Protection of Housing Measures Act.
6. We are a stronghold for the poor, a cost-free alternative avenue for justice and an accountability mechanism that transcends traditional forums such as courts and tribunals.

Historically, you needed to go to court to resolve disputes against the state. The playing field was skewed in favour of the state, making it nearly impossible for a regular person to litigate against the government because they did not have the financial muscle to do so.

Government, however, never lost sleep over the implications of being taken to court by the people because it is well-off and can afford the best lawyers that money can buy.

The midwives of our constitutional democracy knew this too well hence they established my office, an instrument available to you to hold the state accountable without leaving you out of pocket.

To understand the role of the Public Protector, look no further than the judgment of the Constitutional Court in the Economic Freedom Fighters and others versus the Speaker of the National Assembly and others case. In that landmark ruling, the court held that:

“The Public Protector is ... one of the most invaluable constitutional gifts to our nation in the fight against corruption, unlawful enrichment, prejudice and impropriety in State affairs and for the betterment of good governance.

“The tentacles of poverty run far, wide and deep in our nation. Litigation is prohibitively expensive and therefore not an easily exercisable constitutional option for an average citizen. For this reason, the fathers and mothers of our Constitution conceived of a way to give even to the poor and marginalised a voice, and teeth that would bite corruption and abuse excruciatingly.

“And that is the Public Protector. She is the embodiment of a biblical David, that the public is, who fights the most powerful and very well-resourced Goliath that impropriety and corruption by government officials are.”

The role my office plays in this constitutional democracy therefore can't get any clearer than this.

We help with a wide range of matters, including service delivery challenges such as undue delays in the processing of applications for IDs, birth certificates, RDP houses, water, electricity, pensions, social grants, UIF benefits, workmen's compensation, appeals and so forth.

We have 19 offices across the country, from which we render our services. In this province, we operate from Ethekwini and Pietermaritzburg. That is our provincial and regional offices.

We are also accessible through other channels such as the toll-free line (0800 11 20 40), email (registration2@pprotect.org), the website (www.publicprotector.org) and, for those of you who are active on social media, we are reachable on Twitter (@PublicProtector) and Facebook (Public Protector South Africa).

In addition to these avenues, we have an outreach programme, through which we are able to reach out to communities that are located too far afield from our offices. Components of that programme such as the Mobile

Office of the Public Protector (MOPP) make it possible for the Public Protector to bring services closer to your door step.

Ladies and gentlemen;

In the context of Heritage Month, there are several things that the Public Protector can help you with to protect your rights because our mandate is quite broad. However, to avoid unnecessary duplications and waste of resources, we choose to yield to a fellow independent constitutional institution, the Commission of the Protection of the Rights of Cultural, Religious and Linguistic Rights, which also known as the CRL Commission.

This Commission protects your rights to culture, religion and language, which I indicated earlier that they are enshrined in the Bill of Rights, under sections 30 and 31.

However, in our own service to and interaction with you, we also take cue from the Constitution, in Chapter 1, under the founding principles, which declares Sepedi, Sesotho, Setswana, siSwati, Tshivenda, Xitsonga, Afrikaans, English, isiNdebele, isiXhosa and isiZulu as the 11 official languages of the country.

Accordingly, we strive to comply with subsection 2, which provides that: "Recognising the historically diminished use and status of the indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages."

To this end; we compile, print and distribute information brochures in all official languages. These brochures will soon be available in audio for the benefit of the visually impaired. Our outreach engagements are conducted in the languages spoken in the areas they are held in. In addition, we are in the process of publishing a multilingual newsletter.

Programme Director;

I am informed that this municipality has a rural classification of 99%. This and the fact that it is geographically located in the outskirts of the province fits the profile of what my Vision 2023 identifies as the grassroots.

The grassroots is an area where I have resolved that I want to make the greatest impact during my non-renewable, seven-year term at the helm of this institution.

Incidentally, in my maiden address of my staff on my first day on duty nearly a year ago, I singled out Umhlabuyalingana as an example of the remote and impoverished places that needed the intervention of the Public Protector so that the people there, too, can enjoy the fruits of democracy.

In a nutshell, Vision 2023 involves ensuring far-flung communities' **access** to the Public Protector, communicating with such communities in their mother tongues, **expanding the reach** of the Public Protector through additional service points, entering into **Memoranda of Understanding** with other institutions to advance our plans, turning the Public Protector South Africa into a **safe haven** for the poor, empowering people to **know their rights**, encouraging state organs to establish **effective internal complaints resolution mechanisms** and ultimately empowering people to be their **own liberators** and Public Protectors.

From what I have heard people in this area experience a lot of problems with crime, including stock and car theft.

One of the matters that my office has previously helped the people of this area with is the plight of the people who live in the fringes of the Hluhluwe Imfolozi Game Park. That was an own-initiative complaint which followed newspaper reports about locals, who were regularly mauled and, in some instances, killed by wild life from the park. Some of their livestock, too, was not spared.

A report was issued in that regard, giving directives to state functionaries to ensure the safety locals and their livestock. It also called for the compensation of those that had been attacked and lost livestock. Unfortunately the provincial government took that report on judicial review, effectively preventing the implementation of remedial action at least until the court has had the final word on the matter.

I look forward to hearing first-hand from you about your service and conduct failure problems so that my team and I may work out a plan on how best to help.

Happy Heritage Month! Let us continue to preserve our customs and traditions and ensure that they do not get swallowed by cultures adopted from across the seas.

Thank you.

Adv. Busisiwe Mkhwebane
Public Protector of South Africa