



**Address by Public Protector Adv. Busisiwe Mkhwebane during a South African Weather Service event to celebrate Black Leadership in Centurion, Gauteng on Friday, July 21, 2017.**

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**Programme Director;  
Acting Judge of the Labour Court, Judge Tshepo Hope Chaane;  
Member of Parliament, Hon. Thomas Bongo;  
CEO of the SA Weather Service, Mr. Jerry Lengoasa;  
Professor Mokotong (Unisa Academic Professor and SA Weather Service Board Member);  
Councillor Keabetswe Modimoeng of the SA Weather Service Board;  
Dr. Jonty Tshipa, also SA Weather Service Board Member;  
CEO: Puno Global Wastec, Mr Jack Moshoeu;  
CEO: PEO IT, Mr Peter Matsose;  
Mr Blessing Manale, Executive Director: Strategic Interest and Stakeholder Management at Tshwane Mayor's Office  
Distinguished guests;  
Ladies and gentlemen;**

Good afternoon!

I am grateful to the South African Weather Service (SAWS) for inviting me to take part in this important gathering.

Let me also thank the SAWS for the good work it continues to do. You play a very important role in the country. This includes providing us with weather forecasts, severe weather warnings and advisories, seasonal outlooks for farmers and the Department of Agriculture, and marine forecasts.

You are also involved in research, which is critical for all forms of life in our country. Among the areas you focus on are the early warning service,

numerical weather predictions, climate change, the quality of air and atmospheric monitoring, to mention but a few.

As an agency of the Department of Environmental Affairs, SAWS is an organ of state and, as such, falls within the remit of the Public Protector. This means my office has the power to scrutinise any improper conduct suspected and/or alleged to have occurred within this institution.

In fact, my office is looking into a number of matters involving the SAWS. These include two investigations into allegations of tender irregularities and one pertaining allegations of irregular appointment of a consulting firm for the Radar Network Rollout project.

Two of these matters are at an advanced stage of report-drafting. The third one, which is the oldest, is still ongoing. It is one of several matters that were outsourced and subsequently returned to the office for re-investigation.

So, Mr. Lengoasa and your guests, I thought I should, at the very beginning, indicate and declare that I am addressing an event of an institution against whom I am investigating allegations of wrongdoing.

Now that we have gotten that out of the way, allow me to proceed to the purpose of my being here this afternoon. You have asked me to say a few words on the important topic of "Excellence in Black Leadership". It is indeed a pertinent but difficult topic.

Let us start with the Constitution, for it is the basis of everything. We have a very progressive Constitution. It is such a beautifully crafted document to an extent that it leaves many of our country's peers green with envy.

I have previously referred to how an Associate Justice of the Supreme Court of the United States, in 2012, advised Egyptian revolutionaries, who were busy rebuilding their country from the ruins of the so-called Arab Spring, to model their new Constitution on our own, going as far as to label it a "great piece of work".

If I were to sum up this Constitution of ours in a word or two, I would say it is a transformative document. Transformative because, in the main, it seeks to move us from the trappings of the old apartheid dispensation,

where opportunities were an exclusive preserve of the white minority, to a different setting, where both black and white live together in harmony and enjoying equal opportunities.

While it presses hard for the reconstruction of our society, our Constitution is an aspirational document. In other words, it is very ambitious in outlook. You will agree with me that if you have ambitions, you have to work hard to realise your dreams or vision. Similarly, the Constitution requires the will of men and women, who are determined to turn the tide of transformation, to give effect to and breathe life into its progressive provisions in order for real change to be realised.

This means that, on its own, the Constitution is not going to transform our society. There must be a political will to implement it. And this is where the government comes in. Our government, with all three of its arms, has to be the driving force behind the implementation of the Constitution and its transformative agenda.

These three arms of government, as we all are aware, are the legislature; the judiciary and the executive. The legislature, with the help of the executive, makes laws. The executive implements these laws. And, in the event there are problems with implementation; be it through ignorance, omission or commission; the judiciary is brought in to help us with the correct interpretation and to order the implementation of these very laws.

An apposite example in this regard would be non other than section 9(2-4) of the Constitution, under the Bill of Rights, which deals with the right to equality. It provides that:

*"2. Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.*

*3. The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.*

*4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.*

*5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair."*

As per subsections 2 and 4, government had to enact laws that give effect to these provisions of the Constitution. One such law is the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000, a progressive anti-discrimination law that is also known as the Equality Act or PEPUDA.

We also have the Employment Equity Act, No 55 of 1998, whose objective is to achieve equity in the workplace by promoting equal opportunity and fair treatment in employment through elimination of unfair discrimination and implementation of affirmative action measures, with a view to redressing the disadvantages experienced by designated groups such as black people.

Now, among the achievements that the democratic dispensation should be proud to have recorded in the 23 years of its spell should be the enactment of this legal framework that makes the environment conducive for the transformative agenda to thrive.

But, like the Constitution, laws are just text on rims upon rims of paper. For them to work for us they must be implemented and enforced. That, again, requires the will of men and women in society, who understand and appreciate the rationale behind the need to reverse the imbalances of the past.

The unfortunate part is that, while we have this impressive legal framework, we are often found wanting when it comes to implementation and enforcement. As a result, the previously disadvantaged remain largely haunted by their past. The shadow of apartheid continues to loom large in the background. And we see this everywhere; be it patterns of land ownership or the control of the economy.

I'm bringing all this up because it goes to the heart of what we have gathered here to discuss: Excellence in Black Leadership. For there to be any excellence among black leaders, there must first be opportunities for black people to lead. You can only excel in a role if you have been granted an opportunity and a conducive environment to participate in that space.

There must, therefore, be a deliberate attempt to give black people opportunities in leadership positions so that the ideal of "Excellence in Black Leadership" can be cultivated and, eventually, realised. The fact that we still hold seminars to discuss topics such as this one points to the worrying reality that, political appointments aside, black leadership largely remains a rarity.

And this cannot be right. The leadership of private corporations, firms, and state-owned enterprises, among others, ought to reflect the demographics of the country. There must be a proper representation of black people, women and people with disabilities in the leadership of such establishments.

This brings me to the issue of excellence. You do not excel at your work because you are black or white. As a leader, you excel because you know what you are doing, you do it to the best of your ability, you work hard, you re-skill yourself to adapt to an ever changing environment, you empower others so that you grow together, you influence and inspire them towards a common goal and you reward them for a job well done.

But being at the top has its downside. All eyes are on you. Among those whose eyes are fixed on you are those who do not want you to succeed. These are people who do not want to see excellence in black leadership. They believe black leaders are inherently incompetent, inexperienced and corrupt.

The only way to beat them at their own game is to ensure that, in discharging your duties, you do everything by the book. You do the right thing and do it the right way each time. This means that you must always exercise your powers within the confines of the policies, regulations, prescripts, the law and the Constitution. It means being ethical and morally upright at all times.

Failure to do this will only serve to arm those who want to see you fail, those that wait for you to slip up so that they can get on platforms and scream: "we told you so", with the ammunition they need to bring you down. Believe me, there is a lot of them out there. They want to perpetuate the narrative that says blacks are inherently incapable.

But doing things by the book does not mean mistakes will not creep in. All human beings are fallible. A mistake does not mean you are incompetent or you do not know what you are doing. In actual fact, making a mistake shows that you are doing something. You can't make a mistake if you are folding your arms or if you are not trying.

And once you have made a mistake, it is of no use to moan the blunder. What is important is how you recover from it and reinvent yourself so that you may maintain your followers' confidence in your leadership.

The naysayers stay awake waiting to see you fail. And once you have fumbled, they wait to see you feeling sorry for yourself and giving up. Never give them that joy because they win when you cower.

A few weeks back I issued a report following allegations of the siphoning of public funds by private entities from the Reserve Bank and the alleged failure by the government to recover those monies.

Among other things, I directed that the part of the Constitution that stipulates the mandate of the Bank be amended so as to cater for the socioeconomic plight of the poor just as its peers elsewhere in the world are doing.

That caused an uproar. The Bank subsequently approached the High Court, challenging that aspect of my remedial action. I have since indicated that I will not oppose the Bank's application for judicial review of the remedial action. This was on advice of Senior Counsel.

Both decisions have since invited a flurry of insults. Statements such as "she is incompetent, out of her depth and playing politics" have been the order of the day. I must add that there have also been constructive criticism.

What is interesting is that every other month, aggrieved parties approach the courts, seeking leave to appeal unfavorable judgments. In most instances, leave to appeal is granted and those parties go on to successfully have the superior court overturn the earlier judgments of the lower courts.

And yet we have never heard judges whose verdicts were overturned being accused of incompetence or being told they are out of their depth.

At some point we will have to accept that the law is a contested terrain. It is prone to misunderstandings and misinterpretations. Those that can misinterpret and misunderstand it include highly experienced lawyers and jurists.

That is why we have the courts. Theirs, as I indicated earlier, is to help us interpret and understand the law correctly so that we can implement it the right way. But we are moving on with our work, as the Public Protector South Africa. Thousands of our people look to us to help them exact accountability on their leaders and vindicate their rights. We dare not fail them.

As black leaders, let us go out there and work harder to inspire those that will come after us so that they can be the best that they can be. We already have good leaders in whose footsteps we should follow.

Just this week, we saw the whole world following in the footsteps of a black leader par excellence. That is our icon, the late former President Nelson Mandela. If every black leader in this room can strive only to be half the kind of leader he was, we will surely realise the ideal of "Excellence in Black Leadership".

It was President Mandela himself who once said: "It always seems impossible until it is done". Let us continue to strive for excellence as black leaders.

Thank you.

**Adv. Busisiwe Mkhwebane**  
**Public Protector of South Africa**