



Address by Public Protector Adv. Thuli Madonsela during the Servanthood Leadership & Networking Seminar in Windhoek, Namibia on Thursday, May 07, 2015.

**Master of Ceremonies, Ms. Eliza Beukes;
Our host, Ms Mia Davids;
Pastor Cynthia Harman;
Executive Director of NIPAM, Prof. Joseph Diescho
Managing Director of ILSA Independent College, Ms Valeria Mucleo
Ms. Nangula Shejvali
Distinguished guests
Members of the Media
Ladies and gentlemen**

Good afternoon.

A word of gratitude, once again, to Ms. Davids for inviting me to take part in this important seminar.

I am informed that in attendance here, we have senior government and corporate sector officials. It is indeed an honour and privilege to engage in dialogue with you. I look forward to learning from all of you.

I feel deeply honoured and encouraged by the quality of leadership I've witnessed at these meetings since this morning.

Let me start by telling you a story from South Korea about a high-ranking politician who resigned after he was implicated in alleged corrupt practices that cast a serious doubt on that country's supposed tough stance against bad governance.

The politician in question was allegedly paid US\$27 000 by a business executive in 2013 when the politician in question was campaigning for a seat in Parliament.

The business executive reportedly committed suicide when law enforcement agencies were closing in on him. He was due to face prosecutors on allegations that he used company funds to bribe government officials.

According to reports, two former senior members of the South Korean executive have in the past been jailed for taking bribes.

What is the relevance of this story to what we are discussing today? The story goes to the heart of the principle of integrity for those of us that are placed in positions of trust.

Important lessons can be drawn from this story as we seek to answer the critical question of what exactly constitutes "Integrity in the Public Service"

Senior actors in the public service are among the few that are elected by the majority to exercise public power and control over state resources in the best interests of the electorate.

The relationship between these actors and those that elect them to office is that of trust. In other words, they are placed in positions of trust with the expectations that they will exercise their power in good faith.

When that trust is broken the relationship ends. This is the reason why it is of paramount importance for actors in the public service to strive to epitomise integrity.

But what do we mean by Integrity in the Public Service?

The Organisation of Economic Corporation and Development (OECD), in a Toolkit titled Managing Conflict of Interest in the Public Sector, refers to, among other concepts, "Public Integrity", which it defines as follows:

"The proper use of funds, resources, assets, and powers, for the official purposes for which they are intended to be used."

Transparency International's Gateway Project affirms this definition, adding that: ***"In this sense integrity can be understood as the opposite of corruption."***

In South Africa, the precondition of trust between the people and those exercising public power and control over state resources is underpinned by a comprehensive regulatory framework that controls this relationship. This framework is largely spelt out in our world-acclaimed Constitution.

This is a Constitution that seeks to create an inclusive state, where there is respect for the rule of law and human rights and where human dignity and social justice are upheld.

With the dark past of South Africa in mind, the architects of this Constitution envisioned a state where the potential of each person would be freed and the quality of their lives improved.

Enshrined in this Constitution is the Bill of Rights, which is the corner stone of our democracy. Among the fundamental human rights and freedoms protected under this section are the following:

- Right to equality, including equality before the law;
- Right to human dignity;
- Right to life;
- Political rights;
- Right to housing;
- Right to health care, food, water and social security;
- Right to citizenship;
- Children's rights;
- Right to privacy;
- Right to access to courts;
- Right to administrative justice
- Freedom of expression;
- Freedom of association; and
- Freedom of religion, belief and opinion.

The Constitution then goes on to stipulate the character of the state that must deliver the envisaged on all of the above. This is a state that needed to adopt a transformative agenda in efforts to transform the South African society from what it was on the eve of democracy to that which must ensure a freed potential of each individual and an improved quality of life for all.

Let us look briefly at the constitutional provisions that define the character of the state.

1. Section 195

This section spells out the basic values and principles that must govern public administration.

Among the democratic values and principles to be upheld in this regard are the promotion and maintenance of a high standard of professional ethics; the promotion of efficient, economic and effective use of resources; impartial, fair, equitable and unbiased provision of services; and accountability.

These and other principles and values must apply to administration in every sphere of government, organs of state and public enterprises.

2. Section 96

This section deals with the conduct of the Executive; that is members of Cabinet and Deputy Ministers.

Among other no-go areas under this section are that members of the executive may not take any other paid work; act in any way that is inconsistent with their office or expose themselves to any situation involving the risk of a conflict between their official responsibilities and private interests or use their position or any other information entrusted to them to enrich themselves or improperly benefit any other person.

3. Section 136

This section is applicable to members of Executive Councils or members of the executive at municipal level. Its provisions read exactly the same as those in section 96.

4. Section 48

Under this section, members of the National Assembly swear or affirm faithfulness to the Republic and obedience to the Constitution before they begin to perform their functions in the Assembly.

In addition to these constitutional provisions, the public service, the executive and Members of Parliament have codes of conduct that they must uphold at all times in discharging their duties and responsibilities.

For the Executive, the standard is the Executive Code of Ethics prescribed by the Executive Members' Ethics Act. The public service also has a Code of Conduct derived from the Public Service Act. To avoid a situation where their private interests conflict with their roles as elected representative of the public, Members of Parliament are held to the Code of Ethical Conduct and Disclosure of Members' Interests for Assembly and

Permanent Council Ethics and Members' Interests. Members of Parliament further register their financial interests and those of their spouses and dependents every year.

With all these regulations in place, the placed in positions of trust are still expected to discharge their duties and responsibilities in good faith. This is because the power givers are no always there to see to it that there is no wrong doing.

But, as former President Nelson Mandela puts it, “***Even the most benevolent of governments are made up of people with all the propensities for human failings***”.

The expectation is that, in the event a person placed in a position of trust steps out of line, they must make concessions, make amends and/or offer to resign as did the senior politician in South Korea. In addition, there must be accountability.

This is very important because the absence of accountability and disciplinary action results in impunity, which breeds more wrongdoing to the detriment of the public.

In South Africa, we have an elaborate multi-agency accountability sector. We have the following key components of the integrity sector:

- The Public Protector;
- The Auditor General;
- The Public Service Commission;
- The Directorate for Priority Crime Investigation or the Hawks (South Africa Police Service);
- The Asset Forfeiture Unit;
- Inspector General of Intelligence;
- The Special Investigating; and
- The Anti-Corruption Coordinating Committee.

These bodies can bring recourse in the event there is non-compliance with the laws and regulations governing the use of state resources. They work with traditional checks and balances such as the courts, National Prosecuting Authority and Parliamentary Structures, particularly the Standing Committee on Public Accounts (SCOPA) and the Joint Committee on Ethics.

In addition to these, we also have a free press, whose liberty is protected in the Bill of Rights.

Human rights bodies such as the South African Human Rights Commission, Commission on Religions, Linguistic and Cultural Rights; and the Commission on Gender Equality also play critical roles in ensuring compliance. The same applies to institutional compliance bodies such as Integrity Commissions and the Military Ombudsman. The Presidency's Monitoring Unit is increasingly playing some role while Treasury is increasingly seeing its role as transcending that of simply dishing out

money.

Having said all of these, how should those in the Public Service conduct themselves in such a way that they epitomize integrity?

1. **Public Interest:** People in positions of trust must at all-time act in a manner that is devoid of self-interest.
2. **Consistency:** People in positions of trust, in the Public Service, ought to understand that they are there to serve and that the people do not serve them; it's the other way around.
3. **Respect for the rules and regulations:** Duties and responsibilities must be executed in accordance with the Constitution, laws, policies and prescripts. Where the law or policies are silent, follow the correct processes to make provisions in those laws and policies because you can only exercise power only to the extent that you have that authority.
4. **Be knowledgeable about the rules:** Actors in the Public Service ought to be well-versed in the Constitution, laws, policies and prescripts. Pleading ignorance to these is a recipe for disaster and cannot be an excuse for straying. We have previously suggested that all critical regulations be compiled into easily consumable forms such as pocket booklets.
5. **Justice and Fairness**
6. **Knowing when to quit:** In the event trust is betrayed, you ought to be brave enough to voluntarily step aside as the South Korean leader did. This can to some extent help maintain public confidence in the Public Service.
7. **Accountability:** Always submit yourself to accountability processes and accept outcomes. This is not to say you must not challenge inaccurate and unfair findings. As the former Executive Secretary of the African Ombudsman and Mediators Association and a member of the International Ombudsman Institute, I have learned that good governance is a global problem. But as an African, I and all other fellow Africans, one of the things that we must get right in order to rid ourselves of poverty and underdevelopment is good governance. The responsibility to ensure good governance in our government is not an exclusive terrain of some in society; it is for all of us. We must, therefore, play our individual part to ensure that our governments improve significantly in being accountable, operating with integrity and being responsive to the people's needs.
8. **Authenticity:** Be you. Be true to you and your inner voice and be the best you can be. Don't be a proxy. You can take a lot of things from me but you can't take me from me.

9. Consistency: Always be reliable and dependable.

That is probably the only way Africa will arrive at the promised land of a prosperous and united continent that the African Union Commission Chairperson, Dr. Nkosazana Dlamini-Zuma calls “Agenda 2063: The Africa We Want”.

I invite you to read the futuristic email that Dr. Dlamini-Zuma has addressed to one of the founders of the African Union, Kwame Nkrumah, in which she reports in the year 2063 that the vision that Nkrumah and others such as Leopold Sedar Senghor had for Africa in a hundred years earlier in Addis Ababa has finally been realised.

Thank you.

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