



PUBLIC PROTECTOR
SOUTH AFRICA

Address by the Acting Public Protector, Adv. Kholeka Gcaleka on the occasion of a Discussion with the National Press Club in Pretoria on Monday, 27 March 2023.

Topic: *“The Public Protector, a Vanguard of South Africa’s Constitutional Democracy, 27 Years on”.*

Programme Director

The Executive of the National Press Club and its associated members;

Members of the media at large;

Other representatives from several stakeholders present;

Public Protector South Africa team;

Members of the public watching over streaming services;

Ladies and Gentlemen;

It is a great honour and I’m particularly humbled to stand here before you this evening. As the Public Protector South Africa (PPSA), we seldom have an opportunity to connect with the people who are not necessarily complainants, but those such as yourselves who have a

keen interest in our work, in such an intimate manner. I appreciate your presence here today.

We are not strangers with the National Press Club (NPC), as the PPSA, we however need to do more to nurture this established relationship for the benefit of the common areas in our work, such as having the best interest of the public and South Africa at large to ensure it is preserved for generations to come.

I wish to echo Prof. Thuli Madonsela's words in her address to the NPC right here amongst others, on 24 November 2010, when she stated that "*the media is a very important stakeholder with a critical role of giving the people of SA a voice*". It is from your reporting that we identify matters for investigation, for instance our investigation into the state of the healthcare system in South Africa.

As we will be celebrating 29 years of the existence of our democracy, on the 27th of April, I am not amiss to judge our national mood as one which is relatively celebratory. Of course, anniversaries of any kind also compel reflection on the journey traversed, and in all instances, such reflection invariably reveals both failures and achievements.

Taking notice into the public participation, it becomes my view that people from all walks of life in this country are invested in its good governance, and the impact that it has on our democracy and for this reason alone, those people should be afforded a platform and opportunity to interrogate those reflections and make their voices heard in a relatively unmitigated fashion.

I believe that our discussion tonight is an attempt on our part to provide such a platform, where we come bare and hoping for an honest interaction in taking stalk of even our own state of affairs, amongst others.

Ladies and gentlemen;

Even a moderate reflection on South Africa's 29 years of democracy gives rise to a sense of pride of the strides this nation has made contributed to by different sectors as represented here. I do not wish to pretend that this is the best that things could be, but I must acknowledge that, as a country, we have weathered many storms, no doubt as a result of our unconquerable spirited optimism and most definitely because our nation is constructed on a virtually indestructible foundation – our 1996 Constitution, a collection of foundational values which hails respected and emulated by many nations. It is in this Holy Grail of San law, that the PPSA is enshrined under chapter 9 to strengthen constitutional democracy.

Emphasis must be placed on the highlights by the Constitutional Court that South Africa being a constitutional democracy births two clear implications: the first being, as our Constitution's preamble so strongly asserts, government should be based on the "will of the people"; the second being that the powers of government are delineated by the terms of the Constitution.

The Constitution, therefore can be described as the DNA or the blueprint of the state that is envisaged for the realization of the constitutional vision of South Africa, to the extent that it dictates that the state MUST be democratic, uphold the rule of law and operate on the basis of openness, transparency and accountable ethical standards which the executive should uphold and which include acting in the public interest.

To circle back to the practical realities of our democracy, I reiterate the fact that the principle of good governance is a well-known subtext of our foundational values, these include public accountability, transparency and integrity.

In a Constitutional democracy, such as ours, the framework of the Constitution and law, the essentialia of good governance and accountability is ordinarily illustrated by, inter alia -

(a) Prescribing the powers of government and the procedure of exercising powers.

(b) Ensuring equal treatment and equal protection of law.

- (c) *Guaranteeing protection against the arbitrariness of government and excess of administrative powers.*
- (d) *Creating accountability mechanisms for the exercise of powers and formulation of policies to the people/ representatives of the people*
- (e) *Ensuring procedural transparency of exercising all administrative powers, and*
- (f) *Providing remedies against any kind of maladministration and injustice done to the aggrieved*

This is where we come in as the Office of the Public Protector. Hence it should be with pride that we lead and serve through this office and uphold only what is envisaged by the constitution to carry out our mandate *independently, impartially...without fear, favour and prejudice*. We should be the embodiment of ethics.

Scholars such as Prof Heinz Klug, of the University of Wisconsin-Madison further emphasized that Institutions Supporting Constitutional Democracy (ISCD) are designed to both secure existing rights and democratic achievements and provide an institutional mechanism for establishing the norms and capacities for moving towards the vision of a brighter future.

In 1996, the PPSA was distinguished as encapsulated in the final Constitution and described in Parliament as:

“The Public Protector will monitor and take steps to remedy governmental abuse or corruption.”

An important aspect of the role and function of the PP is therefore to serve as an accountability institution with the power to scrutinize executive action and the conduct of organs of state and public bodies against constitutional imperatives aimed at the promotion of the values of human dignity, equality, non-racialism, non-sexism, the supremacy of the Constitution, as well as upholding the rights of citizens and the basic values and principles governing public administration.

The Public Protector is therefore the beating heart of the promotion of South Africa's constitutional democracy, good governance, efficient administration and the protection of human rights, all of which are directly linked to the issue of power relations between the political executive and civil society and oversight institutions. It is against this backdrop, that we assert ourselves as vanguards of South Africa's constitutional democracy.

In this context, the constitutional mandate of the Public Protector and other ISCD's to "*strengthen constitutional democracy*", is based on the recognition by the architects of our constitutional order that the transformation of democracy into the constitutional promise of a better life for all South Africans, requires governance that is dependent on mechanisms, processes and institutions through which citizens and groups can articulate their interests, exercise their legal rights, meet their obligations, mediate their differences without having to go through a costly court system.

Reflecting on the state of the democratic governance almost 29 years on, the democratic government of South Africa has pursued several post-apartheid socio-economic transformation efforts, however these have generally fallen short of public expectations for a much more rapid rate of change.

It would seem that there is consensus amongst constitutional scholars that the long-lasting socio-economic effects of apartheid continue to play a role in a range of persistent developmental and governance challenges, contributing thereto is the ongoing corruption in the government corridors.

Despite often-large investments and concerted policy efforts to improve things such as housing, public services in their generality, infrastructure, and the state's technical capacities, the delivery of public services remains disconcertingly inadequate and unequally distributed.

Such problems disproportionately affect the most vulnerable members of our population, which, not surprisingly, also suffer from particularly high rates of unemployment and low educational attainment.

The World Bank released a report on 9 March 2022 titled *“Inequality in Southern Africa”*. According to this report, our beloved rainbow nation is still the world’s most unequal country.

While thankfully, racial disparities have gradually declined, many South Africans live in abject poverty and their average per capita incomes are roughly one-fifth of those of some of the other population groups. Income and consumption distribution in South Africa are notably unequal and our GINI coefficient is consistently highest or among the highest globally. There are also significant regional, rural-urban, and racial socioeconomic and infrastructure disparities.

Significantly large segments of our population lack access to decent housing and adequate infrastructure services such as electricity and water, particularly in rural areas and in the vast, high-density settlements surrounding most cities. Many of the residents in these areas, live in informal housing and often lack legal property ownership. Broader challenges to social cohesion include widespread de facto residential racial and socio-economic segregation.

Ladies and Gentleman;

Governance failures and corruption weaken government’s ability to deliver services, increase social mobility and aggravate the inequalities I have mentioned here tonight and the lack of implementation of governance reforms is not assisting the situation. High levels of inequality in turn have the potential to drastically exacerbate the potential for governance and administrative failures, particularly corruption.

By way of example, well-connected business people are able to utilize their influence to override formal procedures when they come into contact with a relatively weak state. Similarly, if poor people are denied access to services to which they are entitled, their lack of resources and connections make it difficult for them to demand their rights.

As a nation, in its entirety, we are all heavily harmed by financial mismanagement, maladministration, and corruption, however, the costs are not borne equally and fall most heavily on the poor through the impact that these have on the quality and accessibility of effective and efficient public services.

As a consequence of their proximity to the people, at the very least, provincial and local governments are the hardest hit because of the key role they play in delivering services such as healthcare, education and housing and now water and electricity, all of which are vital both for the human and economic wellbeing of the people of South Africa.

Municipal IQ conducted some research that revealed severe problems with regard to municipal finance and intergovernmental fiscal issues. Worryingly, the Auditor-General's reports on South African municipalities noted a regression in audit outcomes and an increase in irregular expenditure. Of particular concern are the number of municipalities with disclaimer audit opinions, some have received disclaimers for five or more years consecutively. It is in these municipalities that we too as PPSA identify grave maladministration and an erosion in governance

Accordingly, provincial and local governments are least able to deliver services in the poorest and historically most marginalised areas, and these are the areas where such services are needed most. These patently high levels of variation in service quality lead to a strong sense of injustice in our society.

In the recent past in particular, but over an extended number of years in South Africa, we have all witnessed and experienced that various communities are not only frustrated by their socio-economic circumstances but by poor service delivery, the standard and quality of the service delivery, a trust deficit in the government and a lack of good governance by local authorities in particular.

The indicators of public dissatisfaction include several violent service delivery protests, low levels of civic participation, and a general refusal to pay for services, particularly in municipalities.

Accordingly, to the extent that these socio-economic variables are important drivers of popular discontent, social unrest is likely to be fuelled by the impact of corruption on governance, the economy and the effective realization of human rights as enshrined in the Constitution.

For instance, the underlying tension exacerbated by the impact and effect of the current energy crisis serves as a timely reminder of the economic, social, political, and institutional features of the South African landscape that, if left unattended for long, will undoubtedly contribute towards further, future risks and threats to our democratic order and the safeguarding of our constitutional democracy.

The Public Protector as a vanguard of the democratic state

The current state of affairs underscores the fact that South Africa's democracy remains young and impressionable thus our understanding of constitutional democracy and the rule of law is still developing. I acknowledge that the rate at which that development is taking place can be debated from many perspectives.

With our structural location deemed to be outside of government, but with serious constitutional legitimacy, a far higher public profile, a broader base of public support, and a generally strongly proactive, systemic approach to socio-economic and human rights issues, as the Public Protector we have an opportunity to contribute to the national dialogue on constitutional democracy and provide examples of the value of real debate and the tolerance of a diversity of opinions.

As public watchdogs, we can develop both reactive thematic monitoring reporting and/ or pro-active communication mechanisms relevant to our mandate, to hold government to

account, providing reassurance to the People of South Africa when all is well and sounding an alert regarding problems, when things are not well.

Furthermore, as the Public Protector, we have a strong sense that the indicators of public dissatisfaction that I alluded to earlier and indeed the current situation in the country, call for a courageous response from the Public Protector in line with our mandate to investigate, report and take remedial action independently, and subject only to the Constitution and the law.

And enforce through our powers the responsibility of organs of state, through legislative and other measures, as a MUST to assist and protect Public Protector, to ensure the independence, impartiality, dignity and effectiveness of the institution;

Further, Chapter 14 of the NDP specifically states that:

“...competent, skilled institutions like the Public Protector and Special Investigating Unit need to be adequately funded and staffed and free from external interference.”

I take this opportunity to stress the importance of resisting political interference in the work of the PPSA. It is crucial that parties to a dispute that is being handled by the PPSA, have complete confidence that the PPSA is not an advocate for individuals but rather an impartial investigator of individuals' complaints against the government. And take resonance in that we report to Parliament, and should utilise that objective opportunity to make us to account.

The PPSA is established to be non-partisan figure and it is important not to allow the use of such an institution to promote partisan and political interests in particular. Complaints by political parties, pressure groups and similar organisations, is generally a contentious issue amongst ombudsman offices because of the possibility that such complaints might be lodged with the view to embarrass or discredit a department or body or the government as a whole in order to promote the political or institutional goals of the organisation or party concerned.

We thus have a responsibility as an institution to instil confidence in our work through due process.

The former Chief Executive Officer (CEO) of the South African Human Rights Commission (SAHRC) noted that members of Chapter 9 institutions that become too independent face major criticism and are sometimes subjected to undue political pressure, intimidation, and even insults by some members and supporters of political parties.

These attacks show a lack of respect for Chapter 9 institutions and an increasing hostility toward attempts to hold the government and those in power accountable. In so doing, they ignore what the Supreme Court of Appeal said in the *Public Protector v. Mail & Guardian* namely that;

“the Constitution upon which the nation is founded is a grave and solemn promise to all its citizens. It includes a promise of representative and accountable government functioning within the framework of pockets of independence that are provided by various independent institutions. One of those independent institutions is the office of the Public Protector.”

Attempting to intimidate the Public Protector, the SAHRC, and any other Chapter 9 institution threatens the promise of representative and accountable government necessary for the strengthening of constitutional democracy in South Africa. The importance of protecting these institutions from any form of reprisal or intimidation was recognised by the United Nations Human Rights Council in a 2014 Resolution.

This UN resolution emphasized the need and importance of promptly bringing to justice those guilty of intimidating these institutions. In this regard, the Human Rights Council stated that:

“National Human Rights Institutions and their respective members and staff should not face any form of reprisal or intimidation, including political pressure, physical intimidation, harassment or unjustifiable budgetary limitations, as a result of activities undertaken in

accordance with their respective mandates, including when taking up individual cases or when reporting on serious or systematic violations in their countries.”

It is important that the manner in which public Institutions are held accountable by the PPSA be observed as consisting of at least three elements or stages:

(a) The most concise description of accountability would be: ‘the obligation to explain and justify conduct. Firstly, it is crucial that the institution is obliged to inform the PPSA about the conduct of its officials, by providing various sorts of information and documentation about the performance of tasks, outcomes, or procedures. The conduct that is to be explained and justified can vary enormously, from budgetary scrutiny in the case of financial accountability, to administrative fairness in cases of legal accountability;

(b) Secondly, the PPSA interrogates the conduct and questions the adequacy of the information or the legitimacy of the conduct. “Hence, the close semantic connection between ‘accountability’ and ‘answerability’ This usually involves not just the provision of information about performance, but also the possibility of debate, of questions by the PPSA and answers by the Institution.

(c) Thirdly, the PPSA may make a finding on the conduct under scrutiny. It may approve of an annual account, denounce a policy, or publicly condemn the behaviour of an official or an agency. In making a negative finding, the PPSA frequently imposes sanctions of some kind.

I must also add that I strongly believe in and subscribe to the notion that the support and strengthening of any constitutional democracy in any society is a collective effort involving all

its relevant stakeholders: *the citizens, the state and all its bodies and institutions, academics, media, and business amongst others.*

Developing a strong public profile is a vital part of the effectiveness of the PP. Our impact and efficiency rests quite largely upon our public legitimacy, which in turn is strongly influenced by the profile and reputation that we ought to enjoy.

This derives largely, although not exclusively, from the picture presented of the institution in the mass media. Some I am persuaded that regular contact, communication and interaction between the Public Protector, government bodies, NGOs and civil society is a precondition for the success of our various activities. The activities of a statutory body and non-governmental organizations can be complementary, given their different roles and functions. In addition, they can pool their resources and collaborate.

From the perspective of the Public Protector, it is absolutely crucial that citizens are able to respond to service or conduct failures by the state in a manner that reinforces the institutions and values of our precious democracy, our ethical values and justice, and protects sustainable development and the rule of law.

Ladies and gentlemen;

As part of my reflection, I noted the achievements that we have registered to date. Between October 1995 and March 2023, the PPSA has handled a caseload of about 389 318 (***THREE HUNDRED AND EIGHTY NINE THOUSAND THREE HUNDRED AND EIGHTEEN***) cases, finalising 368 297 (***THREE HUNDRED AND SIXTY EIGHT THOUSAND TWO HUNDRED NINETY SEVEN***) cases (unaudited figures), in the process.

Contrary to popular belief, the majority of the cases we deal with concern ordinary members of the public. High-profile matters that the PPSA deals with make up just a fraction of the institution's caseload.

These cases include but are not limited to RDP housing, SASSA grants, IDs and birth certificates and basic service delivery matters.

We also deal with conduct failure issues, including corruption and abuse of power, amongst others.

I also take note of the amount of work we have done to reveal maladministration trends and possibilities of risks in conduct of leadership, such as the State of Capture report and the CR17 matter, though the report was set aside, the gain was the finding by the court that the Executive Members Code be amended to include declaration of funding for political purposes.

In the financial year **2020/2021**, we carried over **3363** from the previous year, and received 5108 new complaints, bring the total caseload for that year to **8471** matters. Twenty-three (**23**) percent of those were what we refer to as no-jurisdiction matters, many of which were referrals to other competent institutions. Eighteen (**18**) percent of our matters in that year were early resolution matters, while a whopping sixty-two (62) percent related to service delivery issues.

A significant part of the mandate, mission and vision of the Public Protector South Africa (PPSA) has been dedicated to protecting all persons against administrative injustices, improving service delivery, and promoting good governance in state affairs. We consider and wish to re-assert ourselves as a catalyst for change in pursuit of good governance.

The PPSA has been pursuing these objectives in the management of complaints, and on a strategic level, pursuing dialogues with organs of State on systemic governance challenges, as reflected in our current strategic plan. Our business processes are also being aligned to identify and address the most probable underlying causes of problems, complaints and undesired events within the relevant public body or authority, with the aim of formulating and agreeing on corrective actions to at least mitigate, if not eliminate, those causes and so produce significant long term improvements in the public administration.

In many instances, complainants approach the PPSA because an in-house complaint-handling procedure has failed to resolve their grievance or dispute. It is important to strengthen our early resolution processes and intensify mediation to amplify or purpose as an ombudsman.

At this point, I am happy to share that we are conducting a vigorous drive to enter into Memoranda of Understandings (MoUs) with government, to among other things, increase collaboration and establish communication channels that will give life to these aspirations. We have to date signed agreements with the provincial governments of Gauteng, Eastern Cape, Northern Cape and Kwa-Zulu Natal.

We are hoping to enter into similar agreements with the remainder of the provinces, starting with the Free-State, where we will be visiting in the near future. We have also entered into similar agreements with the provincial legislature of Kwa-Zulu Natal (KZN), and are to finalise our agreement with the Eastern Cape in due course. To the extent that time and circumstances have permitted, the concluded agreements, have already yielded positive fruits.

The Speaker of the KZN Legislature accompanied us on our recent inspection of the Glebelands Hostel in Durban, our Provincial Representative in the Eastern Cape was granted an opportunity to address the provincial Legislature about a week ago, on the rate of implementation of our remedial action.

I am thankful to the Premiers, Speakers and Deputy Speakers of those provinces for the enthusiasm with which they have interacted with us, and the commitments they have undertaken to assist the PPSA in executing its mandate.

The separation of less complex and urgent matters from investigations has been helpful as these matters no longer have to queue behind complex cases. A high number of matters dealt with by the Public Protector South Africa (PPSA) are being resolved through early

resolution approaches. These are cases that we call “*bread and butter*” matters that need to be resolved with speed because complainants in such cases are often on the verge of losing their houses or sources of income unless the PPSA steps in to help.

Going forward, we have identified the need to assist local government with policy development and training; the need for tightening the ethics regulatory framework; and the need for consistency in the application of disciplinary action. We must also deal with impunity. Without ending this phenomenon, no difference can be made.

Remedial action

Providing redress for administrative wrongdoing, is one of the underpinning principles of public accountability and giving visible meaning to constitutional democracy by ensuring that authorities are “*fair and take responsibility, acknowledge failures and apologise for them, make amends, and use the opportunity to improve their services.*”

No member of the public should suffer prejudice or injustice as result of the wrongful actions of an organ of state. It is a well-known fact, supported by international research which has found consistently that disadvantaged and vulnerable members of the community experience more barriers to access to justice than others. The capacity of an individual to seek justice through any number of forums will vary, for example, according to their level of literacy, age, level of education, awareness and financial means.

The PPSA, in fulfilling its mandate of contributing and supporting a democratic society where social justice prevails, recognizes the need to acknowledge victim suffering as a result of improper conduct in state affairs.

Our remedial action is thus intended to go beyond restoring the administration, on measures designed for reparation, by providing redress to the individual, but also to promote reconciliation between the people and the State to ensure a continuously sound relationship between the two, which is one of the most vital requirements of a stable democracy.

We are empowered to take and ensure remedial action before, during or even after an investigation, when the impropriety and prejudice is evident, and there is room for intervention by means of negotiation, reconciliation or mediation to remedy the administrative error and consequences. The underlying objective in the provision of remedial action is to ensure that organs of state restore the complainants' legal rights or otherwise put them in the position that they would have been in if the maladministration or poor service had not occurred.

Recent developments in South Africa have provided significant jurisprudential evidence to how the ombudsman's binding authority could be given effect. The PPSA's authority has been bolstered by court rulings occasioned by a series of audacious investigations, first, into a number of strategic public organisations, as well as under the *Executive Members' Ethics Act No. 82 of 1998*.

When the issue came before the Constitutional Court, the Court's discussion of the mandate and powers of the Public Protector confirmed that even though the PPSA is modelled on the Ombudsman, its existence, and its founding legal provisions, have been molded by political events in South Africa. It therefore has a unique character influenced by the fact that, inter alia –

- (a) South Africa, unlike many other countries, is a constitutional democracy in which the principle of constitutional supremacy prevails.*
- (b) Ombudsman Institutions largely only have the power to make recommendations, while the PPSA is specifically mandated in terms of section 182(1)(c) of the Constitution to “take remedial action”.*
- (c) In many countries with an Office of the Ombudsman, only the findings of the Ombudsman are binding and compliance with recommendations generally takes place as a natural consequence of showing courtesy to the Ombudsman institution itself.*

I will not go into the details of the judgment, as I am sure by now we are all aware of the Constitutional Court judgment by Chief Justice Mogoeng Mogoeng that confirmed the binding nature of our remedial action.

Analysts such as Professor Christopher Thornhill of the University of Pretoria highlight the fact that the reports by the PPSA are valuable sources of reference in public administration as outlined in chapter 10 of the Constitution, 1996. It furthermore establishes the important role of Accounting Officers in the public service and the implications of their duties and responsibilities in financial management. Although new Public Management demands a more business-like approach in the public sector, PPSA reports prove that public accountability is not only a cornerstone of democracy, but also reiterates that due process must be followed to ensure accountable public administration.

With an implementation rate of approximately thirteen **(13)** percent nationally, since the 2016/2017 financial year, we can hardly assert that our role has sufficiently landed and have an impact. In the same period, sixty-five **(65)** percent of our remedial action has not been implemented at all, while only thirteen **(13)** percent has been partially implemented, approximately eight **(8)** percent have been taken on judicial review. These numbers relate to formal reports signed at the level of the Public Protector, and not necessarily every single matter investigated by the institution.

We are working very hard to turn the tide in this regard, some of that work is expressed through the relationships we are building with government as I mentioned earlier. To this end we are reconfiguring this data, with the hope of identifying specific defaulters and breaking down at what level of government the defaulting occurs, what kind of investigations these relate to, which localities this is occurring most frequently in and other categorisations.

This analysis, will assist us to understand why there has been such a low rate of implementation, and where possible develop solutions to prevent that. Of course, we must also ensure that we develop remedial action which is informed by law and various

practicalities surrounding the implicated institutions and/or persons. Therefore we need to ensure that our remedial action is implementable.

Accordingly, and in line with our Act and the jurisprudence, we are encouraging affected and implicated persons to actively participate and contribute in the formulation of the remedial action, setting out clearly the challenges they may have with our proposed remedial action at section 7(9) stage which encloses our preliminary findings, and proposed remedial action. It represents an opportunity for affected and implicated persons to provide substantive representations that may either confirm or rebut our preliminary findings, and where appropriate, to advise on whether they are amenable to our proposed remedial action.

With the high rate of non-compliance, we are putting forward as one of the amendments to the Public Protector Act as contempt, the non-implementation of the remedial action, which will then criminalise this conduct. We will seek your support in this regard once we have processed same and calls for public participation are made.

Ladies and Gentleman;

Owing to the rather intimate nature of our discussion today, I take this opportunity to speak relatively frankly with you.

I acknowledge that South Africa cannot be described as a nation which has reached its full potential, and certainly there is much to be said about what we all think the causes of that may be. The indicators of dissatisfaction and disappointment by the populace are well documented and certainly justified.

However, moving away from that debate and sticking solely on the facts underlying that debate, I recognize that it is in these pivotal moments in time that the drafters of our Constitution must have anticipated when creating the Office of the Public Protector.

With that in mind, I take this opportunity to call upon you to have your own reflections on the constitutional project, and to consider deeply, what role you can play in supporting its success.

As the PPSA, we are gearing ourselves to advance forward in the protection of our democracy, by ensuring that as an institution, we traverse these trying times with an impact that we hope shall reverberate with and be positively felt by all the People of South Africa.

To this end, we ask that you, in all your formations and groupings actively participate in strengthening protecting institutions like the Public Protector and please not individuals, as these institutions were designed and created to support our democratic state.

I know we are curious about *Phalaphala* investigation, kindly allow me not to engage in its merits tonight as this matter has not been concluded. It is in the best interest of all of us, that we allow due process in the matter, so that whichever finding prevails at its conclusion, is able to stand most importantly, court scrutiny should it be taken on judicial review.

In closing, allow me to quote from the remarkable African Scholar, *Professor Patrick Loch Otieno Lumumba* of Kenya, referring to his own country, which finds resonance, in my view, in our own country, he said:

“We are the third world not because the sun rises on the West and sets in the East but because we have engaged the reverse gear and we are moving with jet like speed in the wrong direction -we must change this by rolling up our sleeves and working for the growth of our country.”

Thank you.

Adv. Kholeka Gcaleka

Acting Public Protector South Africa