



ETHICS, ACCOUNTABILITY AND LEADERSHIP

KEYNOTE ADDRESS BY THE PUBLIC PROTECTOR ADV. THULI MADONSELA GRADUATION CEREMONY, UNIVERSITY OF FORT HARE, EAST LONDON - 10 MAY 2013

**Programme Director
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Representatives of Government
Fort Hare alumni,
Graduants and students,
Parents,
Members of the media,
Ladies and gentlemen,**

I am deeply humbled by the honour bestowed on me by the University of Fort Hare. Words cannot express my gratitude. I must confess that your awarding me the honorary doctor of laws degree has inspired me to join the predominantly young men and women who are graduating today in pursuing further studies. In Zulu we say "***ufunda uze uguge.***"

Let me also hasten to congratulate the women and men that are graduating today. Today you join several of our country's political and intellectual giants who were breast-fed by this great university in its 96 year history. These include our global icon, former President, Nelson Mandela. I counted no less than half a dozen university Vice Chancellors, including Prof. Makhanya of the University of South Africa, among the alumni of the University of Fort Hare. As a nation we are not only indebted to Fort Hare for the great minds and hearts it has produced, we are also proud of the fact that the

legacy or intellectual footprint transcends our borders. Some of the great minds of our continent were also nurtured by this institute.

Among the great minds produced by this institution are Oliver Tambo, Robert Sobukwe, Govan Mbeki, Reverend Tiyo Soga, Arch Bishop Emeritus Desmond Tutu, Dr Kenneth Kaunda, Sir Seretse Khama and Julius Nyerere.

In the midst of the hard working women and men graduating today and the great minds and hearts produced by Fort Hare over the years, I am not only humbled but also feel like one of JR Tolkin's hobbits among giants.

I set out to engage you on ethics, accountability and leadership. But I opted not to engage in an academic discourse with you on these matters. In any event I'm certain that many of you would do a better job on a course in *ethics, accountability and leadership*.

To those of you graduating today, I trust that you are aware, as you take a step towards the world that awaits you outside the academia, that you carry the hopes of our people, who look up to you to apply your competencies to lead our country and continent forward.

You carry the hopes of a country seeking to consolidate its constitutional democracy, having risen from the brink of catastrophe as a result of colonialism and apartheid. You also carry the hopes of our continent as it seeks to rise like a phoenix from its ashes in the quest our leaders have referred to as the African renaissance or Africa rising.

As you step into the world I invite you to reflect on the state of our constitutional democracy and Africa and your place in our constitutional democracy and our continent. You are without doubt the beneficiaries of many who sacrificed for the rights and freedoms we take for granted today. Many of them paid very dearly in the pursuit of a better country based on inclusiveness, freedom and equality of opportunity. In their pursuit of a better country, some were forced to abandon their studies as was the case with some of the great minds from this university. They include Steve Biko, another luminary from this institution.

Their sacrifices culminated in our prized Constitution, which articulates the dream of the better South Africa they sacrificed for. Key among the constitutional promises is an improved quality of life of all our people and the freed potential of all. The preamble states the following:

“...Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights; lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law; improve the quality of life of all citizens and free the potential of each person; and build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.”

The constitutional promise of a better country includes a bill of fundamental human rights and freedoms to be enjoyed by all and not just some of our people. Enjoyment of fundamental human rights does not depend on good behaviour, political affiliation or any other condition. You are entitled to human rights simply because you are a human being.

These rights incorporate social and economic rights such as the right to education, the right to access to health care, the right to economic activity, the right to social security and the right to access to housing. The Constitutional court, in which Justice Skweyiya, Chancellor of this great institution serves, has done a remarkable job in giving meaning to the constitutional provisions on socio-economic rights.

It is worth noting that the architects of our democracy included constitutional provisions defining the character of the state and responsibilities of those entrusted with public power. This was in recognition of the fact that the apartheid state was not designed to and could not deliver the new inclusive society. The provisions defining the character of the state include provisions in the preamble regarding our commitment to the supremacy of the rule of law and the values of openness, transparency in state affairs and the achievement of equality and freedom of all.

The provisions defining the character of the state also include the supremacy of the Constitution. The final say on what the Constitution says rests with the courts, with the final word being that of the Constitutional Court. In other words it is the judiciary and not Parliament that has the final word on the interpretation of the Constitution. That is why non-political people are appointed as judges to the Constitutional Court.

Further provisions on the character of the state include section 96, articulating basic ethical standards to be upheld by members of the Executive. This includes eschewing self-interest. Section 195 is critical as it sets out principles of public administration. These primarily centre on putting people first. Section 195(1) for example states that:

"Public administration must be governed by democratic values and principles

enshrined in the Constitution, including the following:

- (a) A high standard of professional ethics must be promoted,***
- (b) Public administration must be development oriented,***
- (c) Services must be provided impartially, fairly, equitably and without bias,***
- (e) People's needs must be responded to...."***

I particularly like section 237 of the Constitution, which provides the following:

"All constitutional obligations must be performed diligently and without delay."

If we were to pay more attention to section 237, public funds would be deployed in a manner that gives priority to people's basic needs. This would, without doubt, accelerate progress on the achievement of socio-economic rights and other developmental priorities.

You will agree with me that the society envisaged in the Constitution or the South African dream, cannot be delivered by the state alone. We all have roles to play. We cannot just sit like the children of Israel expecting our liberators to cater for all our needs. We need not blame government for or expect government to do everything. The state's role is to ensure that conditions are created for persons and communities to harness their full potential to advance themselves and society.

This brings me back to my invitation to those of you graduating today and other young people in this country to reflect on the state of our constitutional democracy and their place in making this country what it was designed to be.

I thought James Patrick Kinney's poem titled ***"The Cold Within"*** could help you as you reflect on your place and role in our constitutional democracy and the Africa rising quest. The poem provides the following:

***"Six humans trapped by happenstance
In bleak and bitter cold.***

***Each one possessed a stick of wood
Or so the story's told.***

***Their dying fire in need of logs
The first man held his back***

*For of the faces round the fire
He noticed one was black.*

*The next man looking 'cross the way
Saw one not of his church
And couldn't bring himself to give
The fire his stick of birch.*

*The third one sat in tattered clothes.
He gave his coat a hitch.
Why should his log be put to use
To warm the idle rich?*

*The rich man just sat back and thought
Of the wealth he had in store
And how to keep what he had earned
From the lazy shiftless poor.*

*The black man's face bespoke revenge
As the fire passed from his sight.
For all he saw in his stick of wood
Was a chance to spite the white.*

*The last man of this forlorn group
Did nought except for gain.
Giving only to those who gave
Was how he played the game.*

*Their logs held tight in death's still hands
Was proof of human sin.
They didn't die from the cold without
They died from the cold within."*

What lessons can we learn from the doomed men in James Patrick Kinney's poem? For me the key lesson is that our fate is tied together. I cannot light your path without lighting mine. Isn't one this part of the ancient African value of Ubuntu? Doesn't Ubuntu also teach us that I cannot harm you without harming myself? Indeed time tested wisdom has taught us that injustice and peace cannot co-exist.

If we were to consider our democracy as a flame of life, what roles is each of us playing to keep the flame from not only going off but to maintain its vibrancy? Are we doing all we can to help our democracy grow from strength to strength so that it delivers the fruits that those who sacrificed for us expected to be enjoyed by all our people?

You may say “but I myself am just starting out in life and have nothing to give”. To those who say that, I refer to the African proverb that says “*If you think you are insignificant, think of a mosquito*”. You have already worked hard to get where you are today. Some of you spent sleepless nights while others starved and struggled with fees to make it this far. It is because of your leadership that you have achieved your goal despite the obstacles you have faced.

I believe leadership is not about occupying a position of power but about influencing change in pursuit of a desired objective. If you agree with me in this regard, we are all capable of stepping up and leading no matter who we are or where we are.

Some of you may even say “but I don't have a job as yet and am afraid I may even struggle to find one”. That is true. We've just learned from Stats-SA that unemployment is at 25.2 percent. That is a serious concern, taking into account that unemployment is much higher than the official definition. But that is no excuse for not defining and playing your role in keeping our flame of constitutional democracy alive and vibrant.

It is amazing how much we can achieve when close the door to excuses. For example, while looking for formal employment, you could volunteer in civil society organizations or the state. This could help you gain skills.

Charlotte Maxeke, the first African female graduate in our country, was unable to get the job that she deserved under apartheid. She also confronted various difficulties owing to her race and gender. But the challenges did not prevent Charlotte Maxeke from making a difference in our democracy and the lives of our people. She used adversity to make a difference. Among many visionary acts, Charlotte Maxeke pioneered the ideas that now inform child justice and gender justice in our courts. Today we celebrate her as one of the greatest minds this country and continent have ever produced.

Speaking as your Public Protector, I can indicate that there is all a lot you can do to ensure that our state is accountable, operates with integrity at all times and is responsive to all persons and communities. One of the things you could do is to help my office meet its constitutional obligation to be accessible to all persons and communities. You can ensure that you inform all about our services, which is to

investigate and redress improper conduct or maladministration in all state affairs. You may also report wrongdoing to my office, whether it's about service failure or conduct failure, including ethical lapses and corruption.

The Public Protector has enormous potential for redressing administrative injustices of the state affecting ordinary people on a day to day basis. You can help ensure that all who need our services access them. I must indicate that this is another issue on which I disagree with a Member of Parliament who says I must send some of our people to court when they approach me with complaints. In creating the Public Protector, the architects of our constitution meant for our people to never have to spend money for justice when there is a cost-free avenue for justice available. Courts are important but expensive, complicated and time consuming.

Those of you from the legal and education fields may also assist complainants to frame their complaints as they do not always know where to go. You may also help with information and legal research during our investigations. You may also assist people approach other institutions, including the Human Rights Commission and courts. I believe the volunteer route is what Charlotte Maxeke would have done.

We have limited opportunities for law graduates, including the opportunity to groom you as trainee investigator. Last year, we recruited 100 trainees, who are doing a wonderful job. If we get more money, we could employ a hundred more.

As you go out to the world remember that you carry the hopes and dreams of a nation about to reach the second decade milestone of its hard earned democracy. A lot of progress has been achieved since the onset of democracy. However, a lot of mistakes have also been made. In defining and honouring your place in the consolidation of constitutional democracy, you may help correct the mistakes thereby ensuring that the constitutional dream of a better country is realised expeditiously.

You also carry the hopes and dreams of a proudly growing continent. With lessons learned from the doomed six people, define and play your part in our country's quest for its dream. Africa rising also depends on each of us defining and playing our roles faithfully and diligently. Africa is indeed rising and there are indications to that effect.

Thank you

Adv. Thuli Madonsela
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