



Address by Public Protector Adv Thuli Madonsela during the official opening of the University of Pretoria's Masters' Degree in Human Rights and Democratisation in Africa Programme on Friday, February 10, 2012 in Pretoria.

Programme Director, Prof Frans Viljoen;

High Commissioner of Trinidad and Tobago, HE Mr Harry Portab;

UN Regional Representative, Mr[Yanine Poc;

Representatives of Embassies;

Management of the University of Pretoria;

Distinguished guests;

Ladies and gentlemen

The opportunity to speak on this special occasion, the 2012 official opening of the University of Pretoria's Masters' Degree in Human Rights and Democratisation in Africa Programme, is a humbling experience and a great honour.

What do I say to learned people like yourselves who by now have probably heard all there is to say about human rights and democracy? Perhaps the insights of Africa's first elected woman head of state, on young people, leadership and society, provide a good place to start.

Addressing a group of Harvard students on their graduation day, the President of Liberia, HE Ellen Johnson Sirleaf said the following among other things:

“As much as I have lived and experienced, what you graduates will know and do will far exceed it. History, it seems, is speeding up. After graduation, you leave the relative security, predictability, and certainty of these walls for a world full of uncertainties. Across the globe, entire societies are being transformed, new identities forged, and national stories retold. People your age across the world are becoming increasingly vocal about how they are governed and by whom. Old templates of control have been overturned as States struggle internally with issues about national character and destiny. People who, heretofore, had no say in those conversations are asserting themselves and taking a place at the table, with or without an invitation”.

While the group she was addressing was on the verge of going into the world to apply the lessons gained during the programme and you on the other hand are at the beginning of yours, her pearls of wisdom are fully applicable to you and observations on the context in which they were to apply their knowledge as the next leaders, are fully applicable to you.

The key issue I thought I could engage you on is the role of young people in taking Africa and its constituent countries to the heights dreamt of by the leaders that confronted colonialism and related oppression and subordination in pursuit of liberty and democracy for all inhabitants of our continent.

You will agree with me that as colonialism represented exclusion, oppression, repression and coercion, the Africa that the likes of Kwame Nkrumah, Sol Plaatje and Charlotte Maxeke among others, was one characterised by inclusiveness, peace, stability and sustainable development. Indeed democracy and human rights had to be at the centre of the new Africa.

They must have counted on Africa's abundance of mineral resources, vegetation and diverse people as the foundation for rebuilding the continent and improving the living conditions of its people in a sustainable way. In expressing the dream, they spoke of an African renaissance.

The dream was backed by the establishment of the Organisation of African Unity (OAU) whose governance, democracy and human rights frameworks included the visionary African Charter on Human and People's Charter was to enjoy having been rescued from the shackles of colonialism.

But as we all know, it was not to be as post colonial Africa came to be known for, among other things, military coups and violent civil conflicts that resulted in some of the world's worst genocides.

As the battle for political power and control of resources waged on, an enabling environment to breed corruption, underdevelopment, poverty and a disregard for human rights was created. Military coups and subsequent dictators became the order of the day and the rule of law was a matter of books rather than reality.

Through greed and related primitive accumulation which saw state power being seen as the road to quick riches, human rights, particularly human dignity, became a pipe dream. The visual depiction of the African child became the symbol of malnutrition and a victim of unscrupulous war practices, such as rape and child soldiers. Who will forget that haunting picture of a grossly malnourished child encircled by a vulture anticipating her imminent death?

The African dream had been derailed.

Decades later, and just as South Africa finally attained liberation, Africa's leaders and people revived the dream of an African renaissance. The Organisation of African Unity was recast into a more effective governance body and renamed the African Union. Mechanisms such as the AU's Constituent Act, NEPAD and the African Peer Review Mechanisms (APRM) were created to anchor efforts aimed at delivering the African renaissance. The Pan African Parliament was later added and so were the Commission for Human and People's Rights and the Court for Human and People's Rights. The African judiciary played its part and there was a general emphasis on supporting and strengthening institutions supporting democracy.

Former South African President Thabo Mbeki summed up the aspirations of African people during the first sitting of the Pan African Parliament in September 2004, in the following manner:

“The instruments that establish this Parliament make the unequivocal statement that the peoples of Africa yearn for peace, democracy and respect for human rights. They make the unequivocal statement that the people of Africa are determined to extricate themselves from poverty and underdevelopment.

“They make the unequivocal statement that Africa must and will unite and that she will take her place among the continents as an equal partner in the human [folk] striving for a world of peace, freedom, respect for all human beings and a shared prosperity.”

Like a phoenix, Africa was to rise from its ashes. There was an air of hope throughout the continent. Africa was finally poised to take its rightful place among continents. No longer was it to be referred to as “the dark continent”. Africa dreamt of building its economy and governance systems to rival that of Asia. It was no longer going to blame colonialism development, human rights and the rule of law.

But the African dream proved elusive again.

In recent years we’ve seen primitive accumulation of wealth through state power become endemic. For this and other reasons, once in power, leaders found it difficult to relinquish power. For those outside, access to state power began to be seen as proximity to resources for self enrichment and once more instability became an endemic challenge and so did the rule of law. Again the ideal of an inclusive continent rooted in accountability, integrity and responsiveness to the people was under threat.

What we now refer to as “the Arab Spring” is a response to, among others, these more recent challenges. You’d know that it all started with a young man in Tunisia who had had enough of bad governance or

maladministration and its impact on his ability to engage in meaningful economic activity and accordingly live a dignified life. Less than a year later, the political landscape in North Africa and the Middle East has changed significantly.

Ladies and gentlemen,

What does all this mean to you as you commence your human rights and democracy programme?

Every year the University of Pretoria releases into our continent, about 30 law graduates with experience in the field of human rights and democracy. In two years you will be that group of 30 or so and part of a critical mass of human rights and democracy-rooted leadership that is constantly being invested in the continent.

Indeed this is the breed of leaders that President Ellen Johnson Sirleaf had in mind.

I, for one, am deeply encouraged by your resolve to participate in the programme. It gives me and others hope that this beautiful continent's future rests not only on the shoulders of its political leaders but also on informed and hopefully ethical leaders that you will become. Your choice of academic pursuit suggests that you have the African people's interests at heart.

One might ask the question: What is it that the people of Africa really want?

Ladies and gentlemen;

While a lot of progress has been registered since Africa was emancipated from the clutches of colonialism, a lot more still needs to be done in the areas of democracy and human rights.

Again, I will make an example of the so called "Arab spring", which exploded into our living rooms last year as we stayed glued to our television screens watching people yearning for ***"peace, democracy and respect for human rights."***

Unfortunately that revolution came at a heavy price, which included loss of thousands of innocent lives in countries such as Tunisia, Libya and Egypt. Many people were displaced and left homeless and destitute.

Now, coming from a legal background and as a Public Protector or Ombudsman as this institution is called in some of your countries, I am glad to be engaging with people of your calibre.

I am the Executive Secretary of a body called the African Ombudsman and Mediators Association (AOMA). This body, which brings together ombudsman institutions from all over Africa, was established in 2003 to support and protect the independence, development and establishment of ombudsman institutions. This is achieved through the promotion of information exchanges and best practices for the advancement of good governance, respect for the rule of law and the upholding human rights in the continent.

In AOMA we see the strengthening of the African Ombudsman institution as one of the keys to Africa's sustainable rebirth. The ombudsman's role is to uncover and eliminate maladministration or bad governance, including corruption. The office which is typically headed by a senior officer at a level of a supreme court judge or cabinet minister oversees administrative acts of the state with a view to ensuring that people are protected from violations of their rights, abuse of power, unfair decisions and other forms of maladministration.

The Ombudsman was born in Sweden 2002 years ago in response to gaps in the traditional checks and balances that have sought to curb excesses in the exercise of state power. She or he serves as a buffer between the people and the government. The closest traditional model in this country is the *Makhadzi* in the Venda culture.

It has been observed that the potential of the Ombudsman on administrative justice is understudied and therefore not fully appreciated. On a day to day basis my team and I cause organs of state to reverse bad administrative decisions or acts. Examples abound in the areas of immigration, citizenship and social grants. This is in addition to the litany of cases where we help vindicate the right to a decision and the right to

reasons for a decision. This power we exercise even in respect of administrative actions of courts and the Master of the High Court.

Essentially, the Ombudsman further sees to it that governments act in transparent ways and that the administration acts with the highest levels of integrity and accountability while being responsive to the needs of the people. By doing so, such institution help entrench democratic values in countries. Indeed with most Ombudsman having the power to initiate own investigations and to advise on systemic change, the office is globally seen as a catalyst for public sector transformation to entrench good governance.

From our office here in South Africa we can give many examples of acting as a catalyst for systemic change. An area where my office has without doubt, served as a catalyst is the area of government procurement. We used among others, government leasing irregularities to highlight this area as causing enormous financial losses to the state and to advise on urgent, action. It is gratifying to see that my findings were taken seriously and major remedial steps take.

Going back to your role as we join hands to revive and deliver the African dream, AOMA and its African Ombudsman Research Centre (AORC) could be the starting point.

Currently, AOMA has about 36 member institutions out of 56 countries in the continent. Some of the non-members have ombudsman institutions in their countries while others don't.

It is my sincere belief that building and supporting strong institutions supporting democracy is one of the democracy pillars that will ensure that the African dream is never again derailed or deferred.

We all know that human rights and democracy are interrelated and that the one cannot exist. Equally true is that without good governance democracy and human rights cannot exist. Herein lies the importance of linking democracy and human rights endeavours, particularly studies in Africa with efforts aimed at building and entrenching the Ombudsman institution in the continent.

Ladies and gentlemen

Your academic space provides you with a unique opportunity to contribute in this regard. For example, I mentioned earlier that the full potential of this institution has not been fully explored

As academics, perhaps there is a need for scholarly work to be done on this institution, particularly in so far as it relates to the ideal of finding everlasting solutions to Africa's problems.

With the advent of the social media and the general courage of young people today, you need no invitation to enter any dialogue, including that on good governance and the Ombudsman institution in Africa. Nevertheless, you have our invitation as AOMA to contribute in any way possible to the establishment and/or the strengthening of the Ombudsman institution in the continent and your respective countries upon your completion of the programme. I also ask you to integrate administrative justice, good governance and the combating of corruption in your dialogues in the programme and beyond.

Your contribution to the African dream can and should also be at a personal level. It is high time that our actions and pronouncements were reconciled. Like the citizens of George Orwell's *Animal Farm* our people cannot eat rhetoric. We have a duty to ensure that through our day to day actions, we are not part of the problem of maladministration, including corruption, which steals our people's resources and derails public service delivery.

With you I am confident that at the end of the course you will be the ethical leaders whose day to day action will ensure that the African dream is not derailed but is speedily realised. You are poised to play an important part in ensuring that Africa is governed accountably, with integrity and in a manner that is responsive to the people

These are my humble views on how you could play your part in ensuring that a solid foundation is laid for future generations to live in peace and harmony, in development and prosperity, free from the scourge of corruption and disregard for human rights and rule of law.

Thank you.

Adv Thuli Madonsela

Public Protector of the Republic of South Africa