

PUBLIC INTEREST CLAUSE: Madonsela can investigate its omission

Info bill: role for protector

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PUBLIC Protector advocate Thuli Madonsela can investigate why a public interest defence is being left out of the country's controversial Secrecy Bill.

The chief executive in her office, Themba Mthethwa, said last night he is baffled why no one has approached the public protector to probe this issue.

During a heated debate in parliament last week State Security Minister Siyabonga Cwele emphatically rejected any possibility of a public-interest defence being inserted into the Protection of State Information.

Such a clause would protect people who disclose classified material from jail terms of between five and 25 years if they can prove to a court it was in the public interest.

Mthethwa said that ideally the protector's office could initiate such an investigation, but it cannot do so because of budget constraints.

However, if it is approached by a member of the public, a journalist or anyone of the civil rights groups protesting the Bill, then the Public Protector would be compelled to act.

He said the bill is heading to the Constitutional Court, but there may be ways to pre-empt this lengthy route by such an investigation.

Mthethwa's words were well received by a large gathering of the media fraternity to honour KZN's newsmaker of the year, a function organised by the Durban University of Technology.

He took the place of Madonsela at the last minute as she had been called to a meeting with the chief justice in North West province.

Earlier yesterday Madonsela ruled that On-Point Engineering, partly owned by suspended ANC Youth League president Julius Malema, will have no say in the awarding of tenders in the Limpopo Roads and Transport Department until she has completed her investigation.



PHOTO: RAJESH JANTILAL

The deputy vice chancellor of Durban University of Technology, Professor Ahmed Bawa (right), hands the KZN Newsmaker of the Year 2011 Award to Jay Naidoo, the KZN Cricket Union manager of amateur cricket. Naidoo collected the award on behalf of the Proteas' and world No. 1 batsman, Hashim Amla. The presentation was held at the DUT hotel campus in Durban last night. Other nominees for the honour were suspended national police commissioner Bheki Cele, the 150th anniversary celebrations of the arrival of Indians in KZN, the Moses Mabhida Stadium and the 2010 Fifa World Cup. The public overwhelmingly voted for Amla, who was not present as he is playing in the second Test against Australia, which began in Johannesburg yesterday.

Mthethwa said the Public Protector's office and the media are both important institutions in enhancing a country's democracy and working towards equality and human dignity.

He said it is not just the Constitution, but 17 pieces of legislation that inform the work of the Public Protector, and one of the laws allows the Public Protector to investigate the highest office of the land, the presidency. In such a case, however, the complaint cannot come from a member of the public but only from within the executive.

Mthethwa said there is a perception that most of the cases dealt with

by the protector result from reports in the press, but of the 16 000 cases

investigated by his office, fewer than 50 were from the media.

"Most times we deal with bread-and-butter issues like the person queuing for an identity document and not being able to get one or the person struggling to access grants or the justice system."

He said the protector's office took up the case of a young woman who was raped and appeared in court 48 times over eight years and her matter was still not resolved. The public protector prescribed that she had to be compensated and that she be given letters of apology from the then police commissioner, Bheki Cele, and the head of the National Prosecution Authority, Menzi Simelane.