



**ANNUAL GENERAL MEETING AND CONFERENCE:
7–11 November, 2011, Crossroads Hotel, Lilongwe, Malawi**

8 NOVEMBER, 2011

REMARKS BY THE LAW COMMISSIONER, MALAWI

The Law Commissioner, Gertrude Lynn Hiwa (Mrs.)



Mrs. Hiwa was appointed the third Law Commissioner on 24 June, 2008. Her impeccable legal career spans some 19 years of service in the public sector in various capacities. Mrs. Hiwa started her career as a State Advocate at the Ministry of Justice in 1992. She was seconded to the Office of President and Cabinet in 1994 until 1996 when she returned to the Ministry of Justice where she joined the Drafting Section. She rose to head the Drafting Section as Chief Parliamentary Draftsperson in July, 2006. She served in this capacity until her appointment as Law Commissioner.

Mrs. Hiwa has, in her career, served as a member of several statutory bodies, been involved in various Government negotiations with various donors as a Legal Advisor. On several occasions, Mrs. Hiwa served as a Commissioner on special Law Commissions of the Malawi Law Commission, including the special Law Commissions on the review of the Constitution and Gender-related laws respectively.

She graduated with a Bachelor of Laws (Honours) degree from the University of Malawi, Chancellor College in 1992. She also holds a Master of Laws degree in Legislative Drafting from the University of the West Indies which she obtained in 1996.

The Honourable Minister of Justice and Constitutional Affairs,
Mr. Ephraim Mganda Chiume, MP;

The Honourable the Chief Justice,
Justice Lovemore G. Munlo, SC;

The Chairperson of ALRAESA,
Mr. Sackey Shanghala, Chairperson of the Namibian Law Reform Commission;

Heads and members of Law Reform Agencies of Eastern and Southern Africa, and other Law Commissions from the rest of the world,

Justices of Appeal, Justice Elton M. Singini, SC and Judges of the High Court of Malawi present,

The Deputy Chief Secretary to the Government,
Mr. Necton Mhura;

The Solicitor General and Secretary for Justice,
Mr. Anthony Kamanga, SC;

Representatives of Government Departments present,

Distinguished Participants,

Members of the Press,

Ladies and Gentlemen

It is with great pleasure that I welcome you all to the 2011 ALRAESA Conference and Annual General Meeting in Lilongwe, Malawi. Since 2003, when the establishment of ALRAESA was formalized, the turn for Malawi, the Warm Heart of Africa has finally arrived to host the Conference and Annual General Meeting of this great and auspicious association. When it

was proposed in Maseru, Lesotho during the 2010 ALRAESA Conference, that Malawi should host the next Conference, this day seemed most distant. Now it is here and it is a great occasion not just for the Malawi Law Commission, but the entire legal fraternity in Malawi. On behalf of the Law Commission and myself, I extend our warm and very special welcome to you all.

Honourable Minister, let me, at the outset, thank you for accepting to open this Conference and also allow me to formally extend our congratulations to you on your recent appointment as Minister of Justice and Constitutional Affairs. Your presence here proves the existing cordial relationship between the Law Commission and Government.

Honourable Minister, it was in October, 2000, when delegates from Kenya, Lesotho, Malawi, Namibia, South Africa, Tanzania, Uganda, Zambia, Zanzibar and Zimbabwe convened a seminar under the theme “Best Practices in Law Reform” in Dar-es-Salaam, Tanzania. In 2003, delegates from these countries met again in Windhoek, Namibia, to formalize the establishment of what we, today, know as the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA).

Malawi, as one of the founding members of this great Association, takes pride in being a member of ALRAESA because ALRAESA fosters the exchange of knowledge and best practices in law reform within our Region; it presents us with a great opportunity to network and co-operate as law reformers; and it symbolizes regional integration of Eastern and Southern Africa. As Members of ALRAESA, Honourable Minister, we are aware of the common socio-economic, legal and constitutional problems our region faces. We feel, therefore, that ALRAESA presents us all with an opportunity to develop, nurture and implement a common vision and solution to our problems through sharing of ideas and recommendations.

Honourable Minister, the Malawi Law Commission is now 17 years old. It was established by the Constitution in 1994 and its enabling Act was passed in 1998. However, it began its work in earnest in 1996 upon the appointment of Justice of Appeal Elton Singini, SC as Law Commissioner. Since then, it has tackled a variety of subjects ranging from criminal justice to gender equality including domestic violence; from economic laws to witchcraft and corruption; from the Constitution itself to governance-related legislation. At this stage, three Law Commissioners later, we feel that we have established our place as indispensable and inevitable to the attainment of constitutionalism, rule of law and democratic governance.

Our accomplishments have been realized in the face of a myriad of challenges. Resource constraints, especially in terms of human and financial resources have often proved challenging. As a result, in terms of financial resources we have often relied on development partners to fund law reform programmes. We hope that Government will, in due course, consider taking over the financing of the bulk of our programmes. We take note of, and appreciate, the commitment Government has made towards this end, through substantial funding of programmes on the review of the Constitution and Witchcraft Act respectively.

Limited specialized training is also a concern. This status quo is compounded by the scarcity of specific law reform training. It is only recently that academic institutions have started introducing law reform programmes for our personnel. However, there are other skills which go hand in hand with law reform such as legislative drafting and legal research. These essential skills are critical to our continued delivery of excellent results that are owned by the citizenry at large. We also hope that ALRAESA shall continue spearheading the development of the requisite skills in law reform for the region and beyond.

Honourable Minister, the ALRAESA family is growing. You will note that among our international delegates, we have a representative from

Africa's and the world's newest State of South Sudan. On behalf of ALRAESA, we would like to congratulate them on their independence since July 9, 2011. We would like to further welcome them to the ALRAESA family as they formalize their membership. It is my view that our brothers and sisters from South Sudan believe in the shared commitment within ALRAESA to continuously agitate for constitutionalism, rule of law and democratic governance in our region.

Honourable Minister, as the hostess, let me conclude my remarks by encouraging our international delegates especially to go beyond this Conference and see what else Malawi has to offer. Malawi, as a destination, will dazzle you with the rare and beautiful *mbuna* fish of the clear waters of Cape Maclear enjoyed as you whet your appetites over the most delicious *chambo* fish. You may also enjoy the cool breeze at the top of Mulanje Plateau while overlooking the evergreen beautiful fields of world renowned tea. Or indeed, you may head south towards Zomba Plateau, or indeed go north to the vast grassland plains of the Nyika Plateau and do not forget to taste the refreshing Mzuzu Coffee. Malawi and its beautiful scenic views beckon you as the stories of this Warm Heart of Africa keep unfolding and winding. We invite you, after this Conference and outside

ALRAESA, to take some time, with your families or friends, and visit with us in the Warm Heart of Africa.

Finally let me thank the Government for providing the funds that have made this Conference possible. To members of staff of the Law Commission, I acknowledge and recognize the effort that each and everyone has invested to make this event a reality. Specifically to the Organizing Team, under the able leadership of Dr. Chikosa Silungwe, I extend my most sincere appreciation.

I wish you all the most fruitful deliberations and hope you shall enjoy this Conference. I thank you all for your attention.
