



**MINISTER OF JUSTICE AND
CONSTITUTIONAL AFFAIRS**

**ASSOCIATION OF LAW REFORM
AGENCIES FOR EASTERN AND
SOUTHERN AFRICA CONFERENCE AND
ANNUAL GENERAL MEETING
Crossroads Hotel, Lilongwe
8th November, 2011**

**Opening Statement by Honourable
Mganda Chiume, MP, Minister of Justice
and Constitutional Affairs**

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

The Secretary General of ALRAESA

Mrs. Gertrude Lynn Hiwa, Law
Commissioner, Law Commission, Malawi

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

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

**Justices of Appeal of the Supreme Court
of Appeal of Malawi and Judges of the
High Court of Malawi here present,**

The Chief Secretary to the Government,
Mr. Bright Msaka, SC

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

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

**The Clerk of Parliament,
Mrs. Matilda Katopola**

Distinguished Participants,

Members of the Press,

Ladies and Gentlemen

Today is an auspicious occasion as Malawi hosts, for the first time, the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA) Conference and Annual General Meeting. I am humbled to be present at such an important occasion and I am greatly honoured to open this Conference for a

region which stretches from South Sudan to South Africa, from Namibia to Tanzania.

Before I perform this distinguished task, I have a few remarks to make. On behalf of the Government and people of Malawi and on my own behalf, I wish to convey to you greetings, and to earnestly and warmly welcome you to Malawi, the Warm Heart of Africa.

It is a great honour and privilege for me to stand before a crowd of eminent legal minds who have decided to

work together for the greater good of Eastern and Southern Africa region, Africa as a whole, and the world at large. Such a gathering of law reformers is not only an event that should occur more often, but it is also an opportunity to take stock of the state of constitutionalism, the rule of law and democratic governance in our respective countries.

Chairperson, within the next two days, you shall be deliberating on some very important issues within the democratic governance sector. Issues of

constitutionalism, rule of law and governance are very central to the sustainability of the strides that our respective countries have made in this area. Malawi, for its part, remains committed to democratic governance at both policy and legislative levels.

Mr Chairperson, in 2006, the Malawi Government adopted an overarching operational strategy aimed at reducing poverty through sustained economic growth and infrastructure development, called the Malawi Growth and Development Strategy

(the “MGDS”). Among the six broad strategic themes of the MGDS is improved governance, which is further, subdivided into six sub-themes where you will find, under sub-theme four, “development of a strong justice system and rule of law”. Under this sub-theme, Government believes that the creation of a strong legal system will safeguard its national interests and promote the rule of law. This, in turn, will become a fundamental factor in achieving sustainable economic development.

Mr. Chairperson, it has also been noted that in order to achieve improved governance, develop and enforce the rule of law in Malawi, there are a number of constraints that have to be met. Shortage of legal experts, lack of local capacity to train legal personnel, high costs of legal services, high crime rates and limited access to justice, among other things, need to be tackled. The Government's overall goal, to this end, is to increase access to justice and entrench the rule of law.

In order to realize some of these aspirations, the Government partnered with the European Union under the Rule of Law programme which expired in September, 2010. Under this programme, the Government was able to deliver several law reform programmes, including the review of the Legal Education and Legal Practitioners Act, a critical piece of legislation in the attainment of constitutionalism, the rule of law and democratic governance. The Government also constructed a new wing of the Law School at Chancellor College and rehabilitated several courts across the

country, among other things. The Government/EU relationship extends itself under the Democratic Governance Programme which commenced in October, 2011 and will run for the next five years. As the Malawi Growth and Development Strategy expires this year, the Government has already revised the same and prepared its successor, the MGDS II, and democratic governance continues to feature under the revised framework.

The Government has also made great strides, since 2009, in processing legislation

that has emanated from the recommendations of the Law Commission. In line with its constitutional mandate regarding gender equality, the Government recently passed the Deceased Estates (Wills, Inheritance and Protection) Act, and the Child (Care, Justice and Protection) Act. Not only does the Government cherish the commendable work that the Law Commission invested in the production of these pieces of legislation, it also cherishes the principles these statutes represent. Other recommendations of the Law Commission enacted into legislation include

the Criminal Procedure and Evidence Code (Amendment) Act; the Penal Code (Amendment) Act; the Local Courts Act; and the Legal Aid Act, all of which further strengthen democratic governance. The Government remains committed to see to it that the remaining proposed legislation on gender is enacted into law.

In terms of access to justice and infrastructure development, the Government has finished the construction of the Court complex in Blantyre and shall soon embark on the construction of the Judicial Complex

in Lilongwe which shall house the Supreme Court of Appeal, the High Court and some Magistrates' Courts.

Chairperson, the Government remains committed to law reform. A number of the programmes undertaken by the Law Commission have been supported by our development partners, I therefore, wish to take this opportunity to sincerely thank all our development partners, including the EU, DFID, NORAD, UNICEF, UNDP and USAID, who have selflessly supported, and continue to support, our law reform agenda

specifically, as well as our continuous efforts to improve access to justice and further strengthen democratic governance in Malawi. I wish, particularly to acknowledge the financial assistance of 30 million Euro which the EU is making available over the next five years under the Democratic Governance Project, and also, the financial assistance of 14 million Pounds which DFID is contemplating to make available over the next five years under the proposed Justice for Vulnerable Groups Programme.

Nevertheless, the Government bears the responsibility of financially supporting the Law Commission secretariat and has, in some instances, provided funding for the programmes of the Law Commission. In 2007, the Government sponsored the largest project of the Law Commission on the review of the Constitution. This contribution was intended to realize the aspirations expressed in the Constitution and in the Malawi Growth and Development Strategy. Currently, the Government is funding the review of the Witchcraft Act. It is the wish of the Government to see to it that

law reform is funded sustainably and that more and more programmes are undertaken using local resources.

Chairperson, my Ministry continues to enjoy the cordial and healthy relationship with the Law Commission. This is easily demonstrated through the level of participation of my Ministry in special Law Commissions as a matter of practice and also through the presentation of Law Commission Reports to my office as a matter of law. This complimentary relationship demonstrates the very essence

of our responsibility in a democratic dispensation. When you have discharged your mandate, you pass on the baton to others to complete the task. When it is done, we all applaud realizing the different roles that everyone played in order to achieve success.

Chairperson, my Ministry is aware that the tasks that lie before your various agencies are enormous. There are, and will always be, notable gaps between the standards and norms as laid down in international instruments and our

Constitutions, on the one hand, and the practical realities of our society, on the other. Our Government has noted that, for instance, law reform is usually a long and expensive process. While remaining committed to law reform, the Government hopes that at occasions such as these, you shall take time to discuss how law reform can be made sustainable. It is, therefore, incumbent upon our Governments and law reform agencies to work together in implementing any recommendations that may be made in this direction.

Chairperson, on the part of the Malawi Government, we are looking forward to a very successful Conference. As for the Malawi Law Commission, this is your opportunity to shine and give ALRAESA a memorable Conference. As to the rest of my fellow countrymen, you are our ambassadors charged with the responsibility to show to our distinguished guests what is really meant when they call us the Warm Heart of Africa.

Chairperson, Your Lordship the Chief Justice, Law Commissioner, Your Lordships

Justices of Appeal of the Supreme Court of Appeal and Judges of the High Court, Distinguished Law Reformers, Distinguished Ladies and Gentlemen, it is now my pleasure to declare the Conference and Annual General Meeting of the Association of Law Reform Agencies for Eastern and Southern Africa officially open.

I wish you all successful deliberations, and I thank you all for your attention.
