

**Closing Remarks by the Chairperson of the African Commission
on Human and Peoples' Rights, Honourable Commissioner
Justice Sanji Mmasenono Monageng, Delivered at the Closing
Ceremony of the 43rd Ordinary Session of the African
Commission on Human and Peoples' Rights
Ezulwini, Kingdom of Swaziland**

- **The Honourable Prime Minister of the Kingdom of Swaziland, Absalom Themba Dlamini,**
- **Honourable Members of His Majesty's Government of the Kingdom of Swaziland,**

- **Honourable Members of the African Commission on Human and Peoples' Rights,**
- **Excellencies, Members of the Diplomatic and Consular Corps accredited to the Kingdom of Swaziland,**
- **Distinguished Delegates of African Union Member States,**
- **Distinguished Representatives of International Organisations,**
- **Distinguished Representatives of National Human Rights Institutions,**
- **Distinguished Representatives of Non-governmental Organisations,**
- **Distinguished Invited Guests of different designations**
- **Distinguished Ladies and Gentlemen**

On behalf of the Members and Staff of the African Commission on Human and Peoples' Rights, I wish to thank all of you for coming to our 43rd Ordinary Session holding here in Ezulwini, in the Kingdom of Swaziland, to help us reflect and brainstorm on some of the burning human rights issues on our continent. I wish also to thank our guests from outside the continent whose continuous interest in and support to the African Commission in particular and Africa in general continue to spur us on.

Your Excellencies, Ladies and Gentlemen

Before I continue, please allow me, on behalf of the African Commission on Human and Peoples' Rights to formally congratulate His Majesty, **King Mswati III**, on the occasion of his 40th birthday and

the 40th Independence Anniversary of the Siswati Kingdom. A few days ago we had the esteemed honour of meeting His Royal Highness at Lozita, where I was able to introduce Members of the African Commission to him and the work of the Commission and why we are here. I was able to personally thank him for putting his country and the convivial surroundings of Ezulwini at our disposal for the two weeks of our stay in this beautiful mountain Kingdom.

Honourable Prime Minister, in my own name and in the name of the African Commission on Human and Peoples' Rights, and the African Union, I have the honour to convey to you, to Your Government and to the People of the Kingdom of Swaziland, heartfelt thanks for accepting to host the 43rd Ordinary Session of the African Commission. I can honestly say all of us have witnessed first hand the legendary hospitality of the Siswati Nation. And I can provide independent corroboration of this hospitality since I live here – and they have given me nothing but the best of the very best.

This well-known Siswati hospitality, the conducive environment and the excellent facilities provided ensured the resounding success of this 43rd Session. For the last two weeks, we have been working in an atmosphere of 'home away from home.' I thus want to extend a special word of thanks you to the Organizing Committee headed by the Honorable Minister of Justice, Prince David Dlamini ably and competently assisted by the Permanent Secretary, Mr Sicelo Dlamini and the Under Secretary, Mr Siboniso Masilela.

Your Excellencies, Ladies and Gentlemen:

A major part of our Sessions is devoted to auditing the human rights situation on the continent over the past six months. The objective is to build a strong and active continental organ that can work in tandem with all stakeholders including our Member States and all segments of the society, to serve the collective interests of the African people. Our gathering here is evidence of our dedication and collective commitment to this shared goal. It is a clear indication that we together want to take effective control of our destiny in the twenty-first century, and proceed to build a new Africa. This reflects a readiness to take stock of our efforts, and measure our progress, so that we can bring together our experiences and redress errors, to ensure that we have an appropriate roadmap for an African renaissance, especially in the area of human and peoples' rights.

In this regard, I would like to pay tribute to my fellow Commissioners, for the important contributions they have made, and continue to make, towards promoting the human rights of African peoples and enhancing the profile and visibility of the Commission, to ensure that it can be and it is a credible human rights guarantor and key actor on the national and international scene. The time has come to transform our opportunities from promise and potential, to effect and result, by creating a virile and enduring institution that can serve as an effective and reliable vehicle for African emancipation and development.

With regards to the human rights landscape in Africa, I would like to underscore that it is a time for – **DEEP REFLECTION!** As you are aware, the African Commission has for some time now been engaged in a relentless search for solutions to the many human rights challenges confronting the African continent. Indeed, the establishment of the Special Mechanisms of the African Commission is a direct response to the human rights challenges confronting Africa. The Special Mechanisms thus represent a strong statement for the need to embark on a new phase in the history of the continent.

Indeed, the establishment of the African Union underscored the realisation by the Heads of State and Government that a paradigm shift was required if the organization was to play the role of a catalyst and to remain relevant to its people.

Your Excellencies, Ladies and Gentlemen:

Within the context of the African Commission that paradigm shift means a re-commitment to protecting human beings through highlighting and publicizing violations; providing a forum for victims to voice their grievances and to seek redress; heeding, amplifying and legitimating the voice of conscience from different parts of the continent; alternative views and perspectives from NGOs and other actors to augment and enrich the viewpoint of Governments; developing norms and standards to guide and enrich national and international jurisprudence; and continuing the ‘building blocks’ protection role of the Commission.

As Chairperson, it is incumbent upon me to call attention to the continuing challenges in Africa which remain in our own backyards.

In that regard I am thinking about the various conflicts on the continent. The conflict in Somalia, Darfur and in many other places where intra-state conflicts have continued to pose serious challenges. All of us have an obligation to do more. We must help countries strengthen their capacity to prevent conflict, at local and national levels. Can we do more at the regional level, to prevent conflict spilling over from one country to another? Can we give greater attention to environmental problems and tensions related to

competition over natural resources? Collectively, I am sure we are able, with the international financial institutions, civil society and with the private sector to ensure that young people get the chance to better themselves through education and peaceful employment, so that they are less easily recruited into predatory gangs and militias. Our NGO partners can do more. Through advocacy, Civil Society, NGOs, Governments and the African Commission should be able to address the roots of violence, hatred, intolerance, racism, tyranny, and the dehumanising public discourse that denies whole groups of people their dignity and their rights.

This brings me to another issue. Wherever we fail to prevent conflict, our priority must be to protect civilians. The parties to conflict – not only states but also non-state actors – need to be constantly reminded of their responsibility, under international human rights and humanitarian law, to protect civilians from violence. During our last Session we adopted the Resolution – ‘Strengthening Our Responsibility to Protect in Africa.’ We must move to protect victims caught in the madness of armed struggles. I recognize translating this into concrete actions will not be easy. In many of the conflicts in Africa, civilians, including women and children, are no longer just “caught in the crossfire.” They become the direct targets of violence and rape, as war is waged against a whole society. But we can no longer afford to be blind to this grim dynamic. Nor should we imagine that appeals to morality, or compassion, will have much effect on people who have adopted a deliberate strategy of killing and forcible expulsion. That is why many of the UN and AU peacekeepers, today, are no longer restricted to using force only in self-defence. They are also empowered to do so in defence of their mandate, and that

mandate often explicitly includes the protection of local civilians threatened with imminent violence.

Another burning issue – is the seeming derailment of democracy in some States in Africa. It is an undeniable truth that respect for human rights is the foundation of all democratic societies. As a matter of fact, democracy is well on its way to becoming a global entitlement – a right and an entitlement that increasingly will be promoted and protected by collective international will. Democracy can provide a critical building block for state reconstruction. Indeed, despite all of the difficulties associated with establishing a democracy - devastating social crisis and, in the worst instances, human rights crimes, there is no feasible alternative to democracy as the core principle for nation building. The basis for long-term peace is a meaningful and well-developed democracy with clean and transparent elections.

Your Excellencies, Ladies and Gentlemen:

Many human rights are directly linked to the election procedures themselves, such as the right to vote and the right to stand as a candidate, the right to campaign freely without being intimidated or in fear of your life. In am sure we are all agreed that formal elections would be a sham without what constitutes an open debate: freedoms of expression, association and assembly. These freedoms are indeed necessary in order for people to be able to monitor, criticise and exert *popular control over the Executive*. At the same time, repression of peaceful dissent, even of the smallest minority, is an affront and hurts democracy.

In other words, there is an obvious interrelationship between democracy and human rights. Democracy will be stronger the more human rights are respected. That is why as Chairperson of the African Commission, I am proposing to States Parties to the African Charter to allow the African Commission to be able to observe and monitor the forth coming elections in respective States.

It is now widely recognised that the protection of human rights is an *international* concern. This has been one of the greatest achievements of our time, and one that was certainly not obvious when the Universal Declaration of Human Rights was drafted sixty years ago. The principle that the United Nations or indeed the African Commission and other international organisations have a right - and indeed a duty - to act in defence of human rights, has gradually been established. The adoption of human rights treaties with their monitoring structures - and their ratification by states - have decisively contributed to this development. The international reach of human rights protection is an obvious part of the principles that all human beings have the same inherent value and that the rights are universal. Those that cannot defend their rights themselves need and deserve support from the outside.

In that regard, I am thinking about the situation in the Republic of South Africa which has raised a number of important human rights questions, especially the issue of Xenophobia against migrants from other countries. No one would have thought that we would be witnessing Africans chasing other Africans on the streets, some of them even being killed.

In that regard, I am pleased to say that The Special Rapporteur on Refugees, Asylum Seekers, IDP's and Migrants has written to the South African Government and issued a press release expressing the African Commission's concerns and worries. I wish to commend the Government of South Africa for accommodating the migrants in the first instance, and the South African Police Force for their timely intervention, and the protection granted to migrants who have sought refuge and protection at police stations. They have shown leadership by rigorously upholding national, regional and international law standards by fulfilling their responsibility to protect innocent civilians. As I said before history will judge us very harshly if we let ourselves be deflected in this task, or think we are excused from it, by invocations of national sovereignty.

There are other disturbing threats to the enjoyment of human rights on the continent. The current food crisis that has hit many African States is a matter of concern to the Commission. Several African States have experienced violence as a result of food shortage. It is my hope that governments across the continent will address this issue promptly whilst upholding the fundamental rights of their people.

Your Excellencies, Ladies and Gentlemen:

It was good to see so many States Parties represented here at such a high level. I know this reflects your understanding that, in these

difficult times, the African Commission is the indispensable common house of the African family. Indeed today, more than ever, Africa needs an effective mechanism through which to seek common solutions to common problems. That is what this Organization was created for. As I said a said sometime ago, we have reached a fork in the road. If the African Commission is not empowered to take bold decisions for the protection of human rights, history will take the decisions for Africa and the interests of the peoples may go by default. But I am pleased to note and even to report that, that process of empowerment has already started by the Commission being able to present and defend its own budget, and for the first time since the existence of the Commission, the AU allocating enough funds for it to carry out most of its activities.

Your Excellencies, Ladies and Gentlemen:

Before I leave this rostrum, I would like to reiterate my profound gratitude to the Kingdom and People of Swaziland, for all the facilities put at the disposal of the Commission enabling a successful 43rd Session, in spite of their other national commitments. We must confess that this is one of the most successful sessions the African Commission has ever had. I also want to thank all the delegates of State Parties, who continue, more and more, to demonstrate a willingness to contribute to the success and richness of our deliberations. Is there need to restate how precious the full and total collaboration of State Parties is in the fulfilment of the mandate of promotion and protection of human and peoples' rights entrusted to the African Commission? Our wish is that State Parties, who are the

privileged partners of the African Commission, continue to give it their unfailing support by participating in greater numbers and more actively in the Sessions of the Commission and in all its activities generally.

I also want to reserve some special thanks to our external collaborators, members of Civil Society, NGOs and IGOs who worked tirelessly and contributed in no small measure towards the realization of the 43rd Ordinary Session. I Say thank you very much.

Your Excellencies, ladies and gentlemen, let me take this opportunity to express my heartfelt appreciation to the staff of the Commission. With only about four legal officers executing a multitude of tasks and only a handful of support staff, it is sometimes a wonder how they somehow manage to get the work done. To the drivers, interpreters, translators, I say a big thank you.