

SPEECH BY THE HONOURABLE MATT CHIKAWA,  
MINISTER FOR JUSTICE AND CONSTITUTIONAL AFFAIRS  
OF THE UNITED REPUBLIC OF TANZANIA ON BEHALF OF  
STATE PARTIES TO THE AFRICAN CHARTER AT THE  
OPENING CEREMONY OF THE 43<sup>RD</sup> ORDINARY SESSION  
OF THE AFRICAN COMMISSION ON HUMAN AND  
PEOPLES' RIGHTS.

7<sup>TH</sup> MAY 2008, EZULWINI, SWAZILAND

The Honourable Prime Minister of the Kingdom of Swaziland, Hon Prince,  
Absalom Themba Dlamini,

Honourable Ministers and Distinguished leaders of delegations of the  
African Union member states present,

Your Excellency Madame Angela Melo, the Vice Chairperson of the African  
Commission,

Distinguished members of the African Commission on Human and Peoples  
Rights,

Your Excellencies, members of the Diplomatic and Consular Corps  
accredited to the Kingdom of Swaziland,

Distinguished Representatives of International organizations, National  
Human Rights Institutions,

Civil Society Organizations

Invited Guests, ladies and gentlemen

It gives me immense pleasure to be here today, at the opening ceremony of  
the 43<sup>rd</sup> Ordinary Session of the African Commission. I feel honoured to be  
asked to speak at this ceremony for a number of reasons.

Let me at the very outset take this opportunity, on behalf of the state delegations from members states of the African Union present here today, on behalf of Tanzanian delegation, and on my own behalf, to express our appreciation for the invitation extended to us to participate in the 43<sup>rd</sup> Ordinary Session of the African Commission.

Honourable Prime Minister, Madame Vice Chairperson of the African Commission, distinguished participants, let me also take this opportunity to express our profound gratitude and appreciation to the Government and people of the Kingdom of Swaziland for the warm hospitality extended to all delegations and participants since our arrival, and the wonderful arrangements and facilities that have been put at our disposal, which I am very certain, will contribute to make the deliberations during the 43<sup>rd</sup> Ordinary Session very successful.

It is indeed as privilege for me to stand here and express some views, albeit in a summary way, on behalf of the delegations of state parties to the African Charter, about the work of the African Commission, as well as on the duties and responsibilities of state parties under African Charter, on occasion of the 43<sup>rd</sup> Ordinary Session.

The ordinary sessions of the African Commission have continued to play an important role in providing Africa, by providing an opportunity, as a mirror, through which Africa is able to see and ask itself what it has achieved, or to identify areas where it has failed in the promotion and protection of human and peoples' rights over the past 21 years since its entry into force in 1986. These sessions have also provided states and other stakeholders alike, to reflect on the prevailing human rights situation on the continent at the

material time, and deliberate constructively the way forward in terms of how the situation can be addressed.

As we can see, the draft agenda of the 43<sup>rd</sup> Ordinary Session covers many pertinent human rights issues on the continent. During this session the African Commission will, among the many items deliberate on the situation of human rights issues on the continent. This is a very important item. It is necessary that this body which was established by the OAU/African Union, which mandate to promote and protect human rights on the continent, should discuss the situation affecting human rights of our people and make the relevant recommendations to our governments and leaders.

I am reliably informed that the debates on this item will provide an opportunity for the representative of state parties to the African Charter, national human rights institutions, international organizations, and civil society to exchange views in a frank and open manner about various human rights issues on the continent. I am sure that the debate will provide an opportunity for all participants, the African Commission in particular, to understand the situation in each state party so that all of us, individually or collectively can address these pertinent issues, and enable us to improve the human rights situation on the continent. In this regard I do hope that the spirit of dialogue and constructive engagement shall inform the deliberations.

There are quite a number of items on the draft agenda, which in my view, are aimed at enhancing the capacity of the Commission to promote and protect human rights on the continent. I listened carefully to previous speakers who have spoken before me, about the role of national human

rights institutions for the work they are doing. Let me say at this juncture that, we in Tanzania have one such institution, which is discharging its role fully since it was established, about seven years ago. I do believe that cooperation between the Commission and the national human rights by the people of Africa. Such cooperation must be commended. I urge all state parties to the Africa Charter which have not done, to consider establishing such institutions. After all these institutions share similar objectives to those, that are provided for under the African Charter, and are established according to each state's constitutional or legal framework.

I am also aware of the important role played by civil society organizations, other wise known as NGOs, in promoting human rights on the continent. The African Union has recognized the role of civil society on the continent, and hence established ECOSOCC as an advisory organ to its political institutions. In the context of human rights, I am aware of the long standing cooperation between the Commission and the NGOs, which must always be aimed at ensuring that the human people's rights safeguarded.

Honourable Prime Minister, Madame Vice Chairperson of the African Commission, Distinguished Commissioners, participants, I do not intend to review all the items on the draft agenda of the 43<sup>rd</sup> Ordinary Session. Le me state, however, that among the items which the Commission will consider, is the consideration of communications. These are complaints brought to the Commission by, or on behalf victims of alleged violations, it is a process which enables the state parties involved to assume their obligations and uphold the human and people's rights allegedly violated.

In the same let me comment on just one more item. This is the item on the consideration of State reports. The obligation by state parties to submit state reports to the African Commission is provided for Article 62 of the African Charter. During this ordinary session, the African Commission will examine three periodic state reports, submitted by state parties, namely the Democratic Republic of Congo, The Republic of Sudan, and the United Republic of Tanzania. I will have the privilege at a later stage of the session to present the periodic report of the United Republic of Tanzania. Let me once again take this opportunity to urge state parties to fulfill their obligations under the African Charter by ensuring that they submit their state reports. These reports enable state parties to contribute to the dialogue on the human rights situation in our countries and thereby enhance the protection of these rights.

Honourable Prime Minister, Madame Vice Chairperson, Distinguished Commissioners, delegates and participants, allow me to make some brief comments concerning developments at the African Union, which shall impact on the work of the African Commission

During the last 21 years of its existence the African Commission has carried out its mandate through very severe financial and material resource constraints, which have negatively impacted on the level of staffing and the morale of its staff, as well as, to some extent the quality of its work. Notwithstanding these constraints, the Africa Commission has survived and grown in stature. It has continued to perform its mandate, undertaken mission, and established special mechanisms, which have addresses such issues as the rights of women in Africa, conditions of detention and prisons in Africa, and many other thematic human rights issues. The members of the African Commission have continued to discharge their mandate, and the Secretariat staff has continued to work with exemplary dedication, notwithstanding constraints.

Let me take this opportunity on behalf of the state parties to the Charter, to express our collective gratitude, through you, Madame Vice Chairperson, to

the members of the African Commission, past and present, and to the staff of the Secretariat, past and present for the exemplary services you have rendered to Africa.

I wish to thank those partners who continued throughout the years to assist the Commission in many ways to ensure that it continued to discharge its functions. I can state that during the AU January 2008 session, the AU Executive Council and the Assembly adopted a decision to increase the financial and budgetary allocation to the African Commission to discharge its mandate, and other tasks that it shall set itself.

Honourable Prime Minister, Madame Vice Chairperson, Distinguished delegates and participants, this finally brings me to the last point I wanted to make.

Two weeks ago, I was privileged to chair a meeting of the AU Ministers of Justice and Attorney General, to deliberate on the Protocol to merge the African Court on Human Rights and Court of Justice of the African Union. The decision to merge the two courts was adopted by the Assembly of Heads of State and Government of the AU in July 2004. I am pleased to inform you that the protocol to merge the two courts was adopted by the ministerial meeting in Addis Ababa on the 18 April 2008, and it is awaiting adoption by the AU Assembly in Egypt, in July this year. Hence forth there shall be established the African Court of Justice and Human Rights, which shall be based in Arusha, Tanzania. I can confirm to you that the merger protocol provides for the establishment of two separate sections of the Court, namely the General Section and the Human Rights Section. The merger protocol provides that the Human Rights section shall work closely with the African Commission to discharge the complementary mandate of protecting human rights in Africa, just as is currently provided for in the protocol establishing the African Human Rights Courts.

It is in the light of these developments that I believe that the mission of the African Commission in the context of the broad African human rights system is gaining even greater significance and that we can state the parties, can only continue to offer our material support and encouragement, so that the African Commission is able to achieve its goals.

Let me here by wishing the African Commission fruitful deliberations during the 43<sup>rd</sup> Ordinary session.

Honourable Prime Minister,  
Your Excellency Madame Vice Chairperson and members of the African  
Commission,  
Distinguished state delegates,  
Dear participants, ladies and gentlemen.

I wish to thank you for your very kind attention.