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Statement by Githu Muigai
SPECIAL RAPPOREUR ON CONTEMPORARY FORMS OF
RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND
RELATED INTOLERANCE

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Mr. Chair,
Excellencies, Distinguished Delegates,
Ladies and Gentlemen,

It is an honour to come before you and engage in an interactive dialogue with the Third Committee on issues relating to my mandate as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Today, I will raise key issues included in my interim report (A/65/295) submitted pursuant to General Assembly resolution 64/148 on “global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”; and in my report (A/65/323) on the implementation of General Assembly resolution 64/147 on the “Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”

Mr. Chair,

My interim report gives an overview of the activities carried out under the mandate since last year as well as the thematic issues I have addressed in annual reports, conferences and other meetings. The activities include country visits undertaken in the framework of my mandate. In this regard, I wish to reiterate my gratitude to the Governments of the United Arab Emirates and to Singapore for their cooperation during my visits.

Thematic issues addressed include racism and conflict; incitement to racial or religious hatred; the situation of migrants, refugees and asylum-seekers; the collection of ethnically-disaggregated data; and racism and sports

Mr. President,

In my report presented to the Human Rights Council in June (A/HRC/14/43), I examined how conflict and racism, racial discrimination, xenophobia and related intolerance correspond. I have emphasized the need to identify early warning signs that help recognize situations which might lead to conflict. I call upon all stakeholders to give due attention to certain issues, such as the way in which the concept of so-called “national identity” is debated within a given country, the presence of socio-economic discrimination against members of specific groups of the population, as well as political manipulation of racist or nationalist ideology. I have also addressed the question of hate speech as a factor that contributes to exacerbate a conflict. Relying on the dehumanization of the other, hate speech may indeed, incite people to commit acts of violence, including killings, against specific individuals or groups of individuals, including in times of conflict. In the context of post-conflict situations, it is essential to ensure that the root causes of a conflict be appropriately addressed to avoid the resurgence of tensions and violence. Let me emphasize that this is of particular importance in the aftermath of internal conflicts, where people who fought against each other continue living together. Racism may lead to genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, let me stress that it is the State’s primary responsibility to protect its population; however, the responsibility to protect is also an obligation of the international community.

I have continued to give special attention to the question of incitement to racial or religious hatred. At the fifteenth session of the Human Rights Council held in September, I presented a report on “the manifestations of defamation of religions, and in particular on the ongoing serious implications of Islamophobia, for the enjoyment of all rights by their followers” (A/HRC/15/53). As mentioned during my presentation at the Council, this report should be read in conjunction with the first report on this subject, submitted to the Council in September 2009 (A/HRC/12/38).

In my latest report, I have referred to worldwide incidents relating to issues raised which fall under five broad and non-exhaustive categories warranting different approaches under international human rights law. These categories include acts of violence or discrimination, or incitement thereto, against individuals on the basis of their religion or belief; attacks on religious sites; religious and ethnic profiling, bans or restrictions on religious symbols; and negative stereotyping of religions, their followers and sacred persons. For each category, I have presented observations pertaining to relevant and applicable international human rights law, which provides sufficient tools to respond to all the cases received. I strongly condemn all acts of violence or discrimination, or incitement thereto, against persons based on their religion or belief, attacks on religious sites. I would also like to express my deep concern at reports of discriminatory profiling targeting specific groups of the population based on their perceived ethnic or religious background. With regard to bans or restrictions on religious symbols – such as minarets, the Islamic veil and the full head-to-toe niqab – I recognize that it is a delicate question, since it raises several issues in terms of human rights. I believe that it is up to an independent and impartial judiciary to assess on a case by case basis whether these restrictions run counter to, inter alia, the freedom to manifest one’s religion or belief, the freedom of expression and the principle of non-discrimination.

I would also like to recall that vigorously interrogating and criticizing religious doctrines and their teachings is thoroughly legitimate and constitutes a significant part of the exercise of freedom of expression and freedom of religion. Consequently, I continue to encourage a focus on how advocacy of racial or religious hatred that constitutes incitement to discrimination, hostility or violence can be effectively combated. Human rights bodies and mechanisms should ensure that State obligations are fully implemented before contemplating any additional standards. It is vital to anchor the debate, and indeed subsequent action, in the relevant existing international legal framework.

My interim report also briefly addresses the question of human rights challenges faced by migrants, refugees and asylum-seekers. Having departed from their countries of origin, these persons encounter several obstacles because of differences in language, customs and culture, a lack of awareness of their rights, and economic and social difficulties. As a result, migrants are particularly exposed to human rights violations and abuse, including racial discrimination and xenophobia. It is through common approaches, coordinated strategies and joint initiatives involving a large range of actors, including civil society, that migrants will be offered enhanced protection against racism and xenophobia.

Another thematic issue I continue to address is the collection of ethnically-disaggregated data. Let me recall that the collection of ethnically disaggregated data and indicators is an essential tool to identifying the persons and groups affected by racial discrimination and to better understand the nature and extent of the inequalities they face. Such data are then important to design appropriate and effective anti-discrimination legislation, policies and

programmes that take into consideration the situation of vulnerability of certain individuals and groups of individuals. Nonetheless, I am aware of concerns by States relating to the fact that the collection of such data may aggravate tensions between individuals and groups of individuals by exacerbating differences; lead to further prejudice and stereotypes concerning certain groups of individuals; be misused for racist and exclusionary policies; and that they may conflict with individuals' human rights and fundamental freedoms, in particular the right to privacy and the protection of personal data. While acknowledging the potential risks, these problems may be overcome if States abide by some key principles, including self-identification, the right to privacy and protection of personal data, and involvement of relevant stakeholders.

Another issue which has drawn my attention is the issue of racism and sports. Fighting racism requires more than the enactment of anti-discrimination laws; indeed, overcoming racism also requires addressing public and private attitudes which comfort, justify and perpetuate racism at all levels and in all areas of life. In the context of the year 2010 which has been marked by mass sports events followed by a large public audience, I have proposed promoting the message of tolerance and non-discrimination through sport as one of the possible approaches needed. The potential of sport as a means to combat racism and discrimination lies on both youth and adults, who may learn and experience for themselves, how individuals from diverse ethnic, national or religious backgrounds can interact in a harmonious manner.

As mentioned at the beginning of this presentation, country visits constitute an important opportunity for me "to gather, request, receive and exchange information and communications with all relevant sources, on all issues and alleged violations falling within the purview of my mandate, and to investigate and make concrete recommendations, to be implemented at the national, regional and international levels, with a view to preventing and eliminating all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance".

In this regard, allow me to refer briefly to my latest mission on which I shall report extensively to the Human Rights Council in June 2011 at its seventeenth session. I visited Singapore in April 2010 and I will present my report on this mission in June 2011. In the press conference held at the end of this visit, I highlighted that Singapore was rightly proud of its richly diverse society where individuals from a wide range of backgrounds manage to cohabit and interact with each other on a small portion of territory. The Government is acutely aware of the threats posed by racism, racial discrimination, xenophobia and related intolerance. In this regard, the authorities have endeavoured to put in place laws, policies and institutions that seek to combat these scourges and to continuously promote social cohesion, religious tolerance and what they refer to as racial harmony. While most of these measures are widely appreciated by all sectors of the society, it is to be noted that the legitimate goal of searching for racial harmony may have created blind spots in the measures pursued by the Government.

Finally, I would like to thank the Government of Bolivia, who has recently confirmed dates for a visit which will take place from 6 to 13 December 2010. I am very much looking forward to engage in a constructive dialogue with the authorities on all matters related to racism, racial discrimination, xenophobia and related intolerance. I am at present also in discussions with the Government of South Africa concerning an eventual mission to this country.

Mr. Chair,

General Assembly resolution 64/147 of last year entitled “Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance”, requested me to prepare a report on the implementation of this resolution, based on the views collected from Governments and non-governmental organizations. I would therefore like to turn now to this report which summarizes their contributions. I am grateful to them all for their very useful contributions.

As I stated in my report to the Human Rights Council (A/HRC/15/45), the persistent existence of extremist political parties, movements and groups poses major challenges to a wide range of human rights and to democracy. My report to the General Assembly therefore attempts to identify how States could better address this phenomenon in addition to others positive measures they have described in their contributions.

I believe that a comprehensive approach is crucial in achieving concrete results in countering extremist political parties, movements and groups. It is essential that States adopt legislation in conformity with international human rights standards, and complement their legislative framework with a broad range of preventive and proactive measures. In this regard, a solid legal framework based on the provisions of the International Convention on the Elimination of all Forms of Racial Discrimination, in particular article 4 is key. I call for universal ratification of this important instrument and recommend States to ensure that their domestic criminal law recognizes racist or xenophobic motivations or aims as aggravating circumstance warranting greater sanctions.

The normative process should be followed by an effective implementation of the laws adopted. This implies *inter alia* a fight against impunity. Perpetrators of racially motivated crimes should be brought to justice, and appropriately sanctioned. Moreover, due attention should be paid to access to justice, adequate reparations, and assistance for victims.

Law enforcement agents play an important role in the implementation of legislation. States should therefore provide them with adequate human rights trainings and implement further measures to ensure the interaction of law enforcement officials with the affected communities. Reducing fears, instilling a sense of trust between communities and States agents should contribute to better reporting of racist crimes.

Mr. Chair,

Any action undertaken in this framework would be incomplete without the adoption of policies which aim to address the root causes of the existence of extremist political parties, movements and groups. In this respect, human rights education is a precious tool.

Traditional political parties have also an important role to play. I encourage them to be more vocal and explicitly condemn any political discourse that incites racial discrimination while avoiding alliance with extremist political parties of a racist or xenophobic character.

To conclude, Mr. Chair, I would like to call upon all Members States to remain constantly vigilant about the existence of extremist political parties, movements and groups. No State is immune to this phenomenon.

I thank you for your attention.
