

**Human rights and migration:
Realising a human rights based approach to the protection of
migrants, refugees and asylum-seekers**



Statement by Mr. Githu Muigai

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racial discrimination, xenophobia and related intolerance**

“Racism and xenophobia affecting migrants”

Ladies and Gentlemen,

It is a great pleasure to be among you today for this important conference. I would like to thank the Government of Portugal, the Council of Europe, and the United Nations Office of the High Commissioner for Human Rights for this invitation.

As we have heard since the beginning of this conference, migration is undoubtedly one of the most challenging issues of this 21st century. It is a challenging phenomenon due to its growing scale and the profound changes it entails within our societies. Indeed, people tend to migrate more and more from one country to another, for economic, political or humanitarian reasons, including poverty, conflicts, and environmental degradation. Increased migration flows have profoundly affected our societies which are becoming more diverse in all aspects. Whereas in most cases many societies and States used to be anchored in mono-cultural identities, they are today confronted with the challenge of, and yet I would also say opportunity for, accommodating peoples of different ethnic origins, cultures, religions or languages within the same territory.

The term “migrants” encompasses a very diverse population. We can find those commonly referred to as “expatriates” and others who may have been trafficked into the country or may be forced into slavery-like working conditions. While acknowledging that each category of migrants may face specific problems of racism and xenophobia, I would like to focus on migrants who are the most vulnerable.

Migrants face significant human rights challenges. Having departed from their countries of origin, they encounter several obstacles because of differences in language, customs and culture, lack of awareness of their rights, as well as economic and social difficulties. As a result, migrants are particularly exposed to human rights violations and abuse, including racial discrimination and xenophobia.

Despite the growing recognition that migration is an essential and inevitable component of the economic and social life of every State, and that orderly and properly managed migration can be beneficial for both individuals and societies, there are unfortunately deeply marked tendencies to characterize migration as a problem and threat to the cohesion of a given society, national identity or security. For instance, in our times of economic turmoil, we have frequently heard migrants being accused of “stealing” employment from nationals. In this context, some political parties have been particularly efficient at manipulating and fostering xenophobic feelings among the population for political gain.

One only needs to mention the recent tragic events in Rosarno, Italy, where xenophobic violence targeted migrants or the sound rise of far-right political parties in several European States which are openly xenophobic, to understand how migrants are easy targets of manifestations of racism and xenophobia. These phenomena are unfortunately not limited to Europe. Examples of similar situations or incidents may be found in all regions of the world. Xenophobic violence targeting migrant workers in De Doorns, South Africa last November is one of them. Irregular migrants – considered as criminals by some States – are even more vulnerable. Due to their lack of legal status and their reluctance to access justice or liaise with any authority, irregular migrants are placed at considerable risk of abuse, discrimination and xenophobic attacks, some of which may be fatal. They will in most cases not report it to the police, they will not seek any kind of redress and remain hidden in order not to be deported.

I would like to strongly reaffirm that migrants, like any other human beings and regardless of their migration status, are entitled to have all their human rights protected by the State where they reside. Both regular and irregular migrants should therefore enjoy, inter alia, their freedom of expression or association; be free from racial discrimination in the fields of education or health; should have the right to equal treatment before the tribunals and all other organs administering justice and their physical integrity should be guaranteed by the State concerned.

While acknowledging the sovereign right of each State to formulate and apply its own legal framework and policies for migration, I would like to recall that these policies must be consistent with applicable international human rights instruments, norms and standards, and designed in a way to ensure that they are free from racial discrimination and xenophobia. In that regard, allow me to refer to the provisions of the Durban Declaration and Programme of Action and the Durban Review Conference Outcome Document which recognize migrants as a major category among the victims of racism and xenophobia. As such, they strongly condemn the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants. They also urge States to take measures to combat the persistence of xenophobic attitudes towards, and negative stereotyping of, non-citizens including by politicians, law enforcement and immigration officials and in the media. In particular action must be taken to ensure that there is no impunity for acts that have led to xenophobic violence, killings and the targeting of migrants, refugees and asylum-seekers.

Faced with rising xenophobic fears and unease among their population, States have in the last decade responded to growing migration flows with greater control at their borders and stricter immigration policies. I, however, remain deeply convinced that, in the long run, finding means to create conditions conducive to greater harmony, tolerance and respect between migrants and the rest of society will prove more beneficial to all stakeholders than the implementation of stricter immigration policies. The means to do so may be various, but they must give prominence to migration policies which are human rights compliant. I also must highlight the critical role of awareness-raising and education to create societies which are tolerant and harmonious, ensuring mutual respect for all.

While education demands long-term investment by States, the benefits clearly outweigh any costs. Societies which live in harmony and enjoy prosperity as a result certainly reap higher dividends than those in turmoil and conflict. States therefore need to educate their own population to emphasize that migrants do not represent a threat to national identity or security, but that they contribute in a positive manner to the socio-economic development of the country. It is, however, also important for States to provide relevant training and information to migrants so that they are aware of their rights, how to access various mechanisms which will guarantee their protection and also make them aware of the societies in which they reside.

States should however not be the only actors involved in this process. Civil society organizations at large, international and regional organizations should also take part in the broad efforts to combat negative stereotypes of, and discrimination against, migrants, and to promote understanding and tolerance. It is only through common approaches, coordinated strategies and joint initiatives that migrants will be offered enhanced protection against racism and xenophobia. It is therefore to the credit of the organizers of this conference that they are bringing to the fore the critical human rights issues surrounding migration. I stand ready to continue to engage in this dialogue and actively contribute through my mandate to ensure the full promotion and protection of the human rights of migrants. I thank you for your attention.