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**United Nations High Commissioner for Refugees
Annual Consultations with Non- Governmental Organizations
(Geneva, 29 June- 1 July 2010)**

Session on Xenophobia

**“Working together: Strategies for protection from xenophobia, racism,
intolerance and bias-motivated violence”**



**Statement by Mr. Githu Muigai
United Nations Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance**

Geneva, 30 June 2010

Ladies and gentlemen,

It is a great pleasure to be among you today for these important annual consultations with civil society. I would like to thank the United Nations High Commissioner for Refugees for this invitation and to express my admiration for the hard work the HCR is doing, together with the civil society, to provide refugees and asylum seekers with protection and assistance and to help them rebuild their lives.

Refugees and asylum seekers are among the most vulnerable groups of people. They have fled from their country to avoid armed conflicts, natural disasters, human rights violations, including racism, racial discrimination, xenophobia and related intolerance which was explicitly recognized by the Durban Declaration and Programme of Action, as contributing to forced displacement and the movement of people from their countries of origin as refugees and asylum seekers¹.

Once in host countries, refugees and asylum seekers often face further major human rights challenges and racism is one of these challenges. One can see that despite efforts made by States, refugees and asylum seekers continue to be victims of various forms of racism, racial discrimination, xenophobia and related intolerance. Racist incidents and xenophobic attitudes towards them are often reported in mass media.

Many factors contribute to the persistence of racist attitudes and practices against refugees and asylum seekers. These include for example the global economic crisis, which has increased socio-economic disparities and exacerbated the fear of “the foreigner”, increased migration flows, and concerns related to the preservation of national identities which I highlighted in my recent report to the Human Rights Council.

As a result of racism and xenophobia, refugees and asylum seekers encounter several obstacles and disadvantages for the full enjoyment of their rights in law and practice. The racial discrimination and racism they experience in the enjoyment of their civil, political, economic, social and cultural rights occur notably in the areas of education, health, housing, employment, access to social benefits, and access to justice. This increases their vulnerability to further human rights violations and abuse, including sexual exploitation and forced labour. We have also noticed in some parts of the world the adoption of more restrictive immigration policies that might have a discriminatory effect on refugees and asylum seekers in their implementation.

Furthermore, certain media have contributed to the spread of racism and xenophobic sentiment in the society by promoting negative stereotypes of refugees and asylum seekers. In addition hate speech and racist discourse against migrants, refugees and asylum seekers by politicians are also of concern, especially during election campaigns. In some cases it has led to hate crimes, including xenophobic violence, attacks, and killings. Such crimes motivated by racism and xenophobia are unfortunately on the rise in many countries and refugees and asylum-seekers have been especially at risk of this kind of attacks.

¹ DDPA, para. 52.

Ladies and gentlemen,

Much remains to be done to protect refugees and asylum seekers. In that regard, I would like to make few recommendations that might constitute initial elements of reflection for a strategic approach to be developed through intensive partnerships. These elements can be considered both at the national and international level.

Regarding action and steps to be taken **at the international level**, the ratification by States of relevant instruments and their full cooperation with the respective UN human rights mechanisms are from my view the first element to be considered in the strategic approach. Indeed I think there is a solid international legal background and we should ensure its implementation. In this relation I would like to recall the importance of the International Convention on the Elimination of All Forms of Racial Discrimination, and the crucial role of the Committee on the Elimination of Racial Discrimination. It is important that States ratify this instrument and fully cooperate with the Committee by providing information in their periodic reports on measures taken to eliminate racial discrimination against refugees and asylum seekers, and implementing the Committee's recommendations thereon.

In addition it is fundamental that States implement the Durban Declaration and Programme of Action and the Durban Review Conference Outcome Document, which constitute the most comprehensive frameworks for the fight against racism, xenophobia and related intolerance. States are urged under these important documents to prevent manifestations of racism, racial discrimination, xenophobia and related intolerance vis-à-vis immigrants refugees and asylum seekers; to take measures to combat the persistent xenophobic attitudes towards and negative stereotyping of non citizens, including by politicians, law enforcement and immigration officials and in the media, that have led to xenophobic violence, killings and targeting of migrants, refugees and asylum seekers; to develop strategies to address this discrimination; and to facilitate the full enjoyment of the human rights of refugees, in accordance with their international obligations and commitments.

Furthermore, there is a need for more cooperation between the different international mechanisms dealing with racism, racial discrimination, xenophobia and related intolerance including those mechanisms set up in the framework of the Durban Declaration and Programme of Action. I would like to encourage you to **establish and strengthen effective partnerships** with partners from different sectors and regions, including Governments, the OHCHR, other relevant international institutions, the UN human rights system, in order to have a comprehensive approach of racism and xenophobia targeting refugees and asylums seekers and respond adequately to this scourge. I would further recommend increasing exchanges of views and sharing of best practices for more efficiency. In this relation the venue on a regular basis of such platforms to share experiences and evaluate progress made, difficulties encounter, and how to react adequately is very welcomed.

Concerning concrete implementation measures and preventive action to be taken at **the national level**, I would like to recommend three main actions that I consider as key elements for a future strategy:

- first the legal process,
- second the measures of protection, and
- third awareness-raising measures, including trainings and human rights education.

Concerning **legal measures**, specific legislation that explicitly define and prohibit racism, racial discrimination, xenophobia and related intolerance should be adopted in accordance with

international human instruments and documents. Furthermore we should ensure that States regularly revise and complete the legislation in particular when their provisions are discriminatory against refugees and asylum seekers and provide insufficient protection in case of racist violence targeting refugees and asylum seekers. In this regard offences committed with racist motivation or aim should be considered in criminal law as aggravating circumstances leading to more severe punishment, as stated in General Recommendation 30 of the CERD.

However legislative processes are not sufficient on their own. They should be complemented by **protection measures** that include provision of remedies and effective complaints mechanisms. Indeed refugees and asylum seekers should be guaranteed an effective access to legal remedies and obtain adequate reparation for any damage suffered as a result of racism and xenophobic behaviour. The victims should also be provided with rehabilitation and support programmes, including psychological recovery. This supposes *inter alia* measures by States to ensure that refugees and asylum seekers are aware of their rights and the assistance they can benefit in the host country. Claims brought by refugees and asylum seekers must be investigated without discrimination and those responsible brought to justice, including when they are officials. All racist incidents against refugees and asylum seekers should be reported and recorded adequately. The collection of ethnically disaggregated data is an essential tool to understand the nature and extent of racism and xenophobia against refugees and asylum seekers, to assess and monitor the effectiveness of the measures taken, and to design appropriate and effective anti-discrimination legislation, policies and programmes.

National human rights institutions can play a key role in the protection of refugees against racism and xenophobia and should be fully involved in the strategy. In this relation I would like to recall how important it is that States establish, strengthen, review and reinforce the effectiveness of independent national human rights institutions, particularly on issues of racism, racial discrimination, xenophobia and related intolerance, in conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights, annexed to General Assembly resolution 48/134 of 20 December 1993. Furthermore, to ensure efficient protection these institutions should be provided with adequate financial resources and a clear mandate to receive, investigate and address complaints of racism and racial discrimination by refugees and asylum seekers².

In addition to protection measures, further steps must be taken through awareness-raising measures including trainings and human rights education.

Awareness raising processes of the public, the media, and the politicians, are important elements in preventing the manifestations of racism and xenophobia against refugees and asylum seekers and should be strengthened. Regarding the media in particular, they should play a key role, through *inter alia* media campaigns promoting values of tolerance and diversity, wide dissemination of the Durban documents, the Convention on the Elimination of all Forms of Racial Discrimination, and appropriate information to the public about the situation of refugees and their vulnerability to avoid amalgam and stereotypes.

Trainings programmes with particular attention to the human rights of refugees and asylum seekers should be provided to law enforcement officials, especially immigration officials and borders police, like the UNHCR and other international organization including the International Organization for Migration, are currently doing. In this context, we should therefore encourage

² DDP, para. 90. See also Durban Review Conference Outcome Document, para. 115.

States to formulate and implement such trainings to avoid situations where prejudices lead to racist violence and decisions based on racism and racial discrimination.

Human rights education, contributes for sure to combat negative stereotypes, racism and xenophobia against refugees and asylum seekers, and to promote intercultural understanding. Indeed, the eradication of racism, racial discrimination, xenophobia and related intolerance is a long-term process which requires addressing its root causes. Therefore, as stated in the Durban Declaration human rights education at all levels and all ages, including within the family is a key to changing attitudes and behaviour based on racism, racial discrimination, xenophobia and related intolerance and to promoting tolerance and respect for diversity in societies.

I would like to add that any strategy would lack efficiency, without the full involvement of all relevant actors, including the civil society, the UNHCR, and the refugees and asylum seekers, themselves, especially regarding their participation in the decision-making process.

NGOs are keys in the promotion and protection of human rights in general, and in the elimination of racism, xenophobia and related intolerance in particular, and States must provide support as appropriate to all relevant actors of civil society and involve them closely in the elaboration and implementation of policies and programmes designed to combat racism.

I would highly appreciate to deepen the cooperation that already exists between my mandate and the civil society, and exchange on how to further collaborate with other institutions, including the UNHCR and see how we could move forward in the implementation of a common strategy to eliminate racism, racial discrimination, xenophobia and related intolerance against refugees and asylum seekers.

I thank you all for your time today and look forward to our discussions.