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**Statement by Githu Muigai
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Racial Discrimination, Xenophobia and Related Intolerance**

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Mr. President,
Excellencies,
Distinguished Delegates,
Ladies and Gentleman,

It is an honour for me to be here today and to address the Human Rights Council at its 14th session. The reports I will introduce today include my annual report (A/HRC/14/43), the report on the inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/14/45 and A/64/295), two country reports on Germany (A/HRC/14/43/Add.2) and the United Arab Emirates (A/HRC/14/43/Add.3), and the communications report (A/HRC/14/43/Add.1).

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Let me start with my **annual report**. As stated in the DDPA, racism, racial discrimination, xenophobia and related intolerance “are among the root causes of many internal and international conflicts” and they are also “very often one of its consequences”. Against this background, my annual report examines how conflict – understood in a broad sense – and racism, racial discrimination, xenophobia and related intolerance interrelate. Since the impact of these scourges may vary depending on the stage of the conflict, I have focused on three situations, namely, before, during and after a conflict.

In order to prevent the eruption of a conflict, it is of utmost importance to identify early warning signs that help recognize situations which might lead to conflict. Thus, in a complementary way to the tools developed by the CERD and the Special Adviser on the Prevention of Genocide, the first chapter of my report calls 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 am indeed of the view that these issues, if dealt with in an inappropriate manner, might contribute to tensions, and eventually conflict.

For instance, noting that in recent years there have been difficult debates surrounding the notion of so-called “national identity”, my report highlights how, if not handled carefully, these debates may foster racism and thereby lead to conflict. Without taking a position on whether such debates should take place or not, or on which elements should be included in the concept of national identity, I emphasize that these discussions should not result in the creation of categories of “others” who may then be denigrated or rejected.

Socio-economic discriminatory practices targeting members of specific groups of the population may also contribute, in the long run, to the triggering of tensions or conflict along group lines. As such, ensuring equal access to economic, social and cultural rights for all is an effective way through which a State may prevent and address the eruption of tensions or conflict. I therefore recommend in my report that States take all necessary measures, including through affirmative action, to prevent, prohibit, sanction and offer compensation for socio-economic discriminatory practices targeting certain groups of individuals.

Political manipulation of racist or nationalist ideology that fosters ethnic enmity is also a significant factor contributing to the triggering of conflicts. Yet, the effectiveness of such manipulation depends on a number of structural conditions, such as unmet human development needs, the socio-economic deprivation of some groups relative to others and the

weakness of the rule of law and democratic structures. The participation of all parts of the population in all areas of public life and the role of the media are also essential in this regard. Therefore, my report emphasizes that an effective response to political manipulation of racist or national ideology must follow a comprehensive approach, taking into account all these issues.

The second chapter focuses on hate speech as a factor that contributes to exacerbate a conflict. For the purpose of my report, hate speech is understood as public and direct incitement to violence targeting persons on the grounds of their so-called race, colour, descent, ethnicity or nationality. Hate speech based on racist ideology tends to create a culture of victimization and to dehumanize certain categories of persons perceived to be less equal. In situations of conflict, the feeling of victimization and the process of dehumanization may then become effective tools to incite people to commit acts of violence, including killings, against specific individuals or groups of individuals. I therefore recommend States to fully comply with their international obligations, in particular with article 4 of ICERD and article 20 of ICCPR, and recall that such obligations remain applicable in times of conflict.

Finally, the third chapter of my report is devoted to post-conflict situations. In order to ensure lasting and sustainable peace and reconciliation, I believe that it is essential to ensure that the root causes of a conflict be appropriately addressed to avoid the resurgence of tensions and violence. This is of particular importance in the aftermath of internal conflicts, where people who fought against each other have to continue living together.

Peace agreements and peacekeeping missions play a key role in addressing the root causes of a conflict, including those related to racism, racial discrimination, xenophobia and related intolerance. In this regard, my report refers to several examples of good practices. Allow me here to put emphasis on some elements that are essential to ensure the success of a peace process. First, it is crucial that relevant stakeholders acknowledge and address the ethnic dimensions of conflicts. Doing so will help to frame appropriate solutions to the conflict and establish a clear mandate for those in charge of monitoring the implementation of related peace agreements. Second, human rights violations committed during a conflict, including racial discrimination, ought to be recognized and addressed adequately in order to ensure sustainable peace. In particular, prominent attention must be given to the suffering of victims to allow for genuine reconciliation. Third, given the volatility of a post-conflict situation, high vigilance is necessary vis-à-vis renewed incitement to violence or hatred, in particular with regard to the adverse consequences of hate speech based on racist ideology. And finally, in order to avoid the resurgence of tensions, all stakeholders should be encouraged to participate in the consolidation of the often fragile peace existing in a post-conflict situation. The peace process should be as participatory and open as possible and should aim at, inter alia, consolidating democracy, the rule of law and democratic governance in order to reconstitute the fabric of society on solid grounds.

Mr. President,

Racism may lead to genocide, war crimes, ethnic cleansing and crimes against humanity, in particular in the context of conflicts. I therefore hope that the recommendations made in this report will help contribute to the implementation of the responsibility to protect populations from these crimes. While emphasis should be put on the State's primary responsibility to protect its population, I also would like to recall that the responsibility to protect is an obligation of the international community. Indeed, the international community, including the

United Nations, has the duty to provide assistance to the State when requested, but it also has the obligation to act in cases where the State fails or refuses to protect its population.

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Excellencies,

GA resolution 63/162 on “the **inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance**” requested me to prepare, for submission to the General Assembly and the Human Rights Council, reports on the implementation of the resolution, based on the views collected from stakeholders. As such, the report (A/64/295) has already been presented before the 64th session of the General Assembly. However, since this resolution requests that reports be submitted both to the General Assembly and the Human Rights Council, I would like to introduce the same report (A/HRC/14/45) today. Let me also inform you of my intention to present a written update on this topic at the Council 15th session in September.

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Ladies and Gentlemen,

I shall now introduce the country reports on Germany and the United Arab Emirates. The report on my recent visit to Singapore will be presented at the Council’s 17th session in June 2011.

The visit to **Germany** took place from 22 June to 1 July 2009. Allow me to first express my sincere appreciation to the Government of Germany for its full openness and cooperation throughout the visit and in its preparation.

During my visit, I observed three key areas of progress in the fight against racism in Germany. These include: (a) the reform of the legal and institutional framework to prevent discrimination through the enactment of the General Equal Treatment Act and the establishment of the Federal Anti-Discrimination Agency; (b) a shift in Germany’s approach towards recognizing the contribution of migrant communities; and (c) a wide array of grass-roots projects to fight racism and promote integration. Despite this important progress, a number of challenges remain to be met to further improve the fight against racism. In my view, two critical areas deserve immediate attention. First, while racism in Germany has traditionally been equated with right-wing extremism, I recommend a broadening of the understanding in practice of racism, to take into account the changes that have occurred, including the arrival of a large number of migrants. Second, due to the strong form of federalism in Germany, I would like to underline the need to ensure that local governments also have effective legal and institutional frameworks to fight racism.

In addition, I addressed and made recommendations on the following: the necessity to further strengthen the institutional and legal framework to fight racism and right-wing extremism; the situation of specific communities and the situation of refugees and asylum-seekers; the question of education, housing, employment and political participation of persons coming from minority ethnic backgrounds; and special measures to be taken to ensure adequate representation of persons with a migrant background in State institutions.

I also visited the **United Arab Emirates** from 4 to 8 October 2009. Again, I would like to express my sincere gratitude to the Government of the United Arab Emirates for its

cooperation and openness throughout the visit. I was particularly honoured to be the first mandate holder to visit the country and I hope that many more will follow.

The United Arab Emirates is a unique country where non-nationals represent the vast majority of the population. In the past few decades, the influx of foreign workers having significantly contributed to the building of the country, has also created tremendous challenges for the Emirati society, in terms of national identity, social integration and absorption capacity. While the Government has taken commendable initiatives to address some of the numerous challenges, I came to the conclusion that much remains to be done. In my report, I raise issues relating to the definition of the Emirati national identity and the granting of citizenship; the living and working conditions of construction and domestic workers; the vulnerable situation of stateless persons; human trafficking; the educational policy; and the legal and institutional human rights framework to fight racism.

For each set of issues, there are specific recommendations. For instance, I urge the Government to take the necessary steps to address the very vulnerable situation of unskilled foreign workers. Priority must also be given to finding an equitable solution to the situation of stateless individuals to ensure that they have adequate access to health, education, social services and employment. With regard to the educational policy, I recommend that the Government reconsider it so as to ensure that public educational institutions are de facto open to all children, including non-nationals. Finally, I call upon the Government to revise some of the constitutional provisions restricting certain human rights to Emirati nationals, so as to extend human rights protection to all individuals residing in the country.

I look forward to engaging with the authorities of Germany and the United Arab Emirates in the implementation of these recommendations. I stand at their disposal to cooperate in the follow-up to these reports.

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Finally, the last report I shall introduce today gives an account of the communications sent and responses received from States in the framework of my mandate. During the reporting period (1 January 2009 - 28 February 2010), I have transmitted 14 communications to 12 Governments and received 8 replies, which indicates a 57% response rate. While I appreciate and thank the concerned States for these replies, I would like to urge all States to respond to my communications in a timely and substantive manner. Responses received some years after the particular human rights violations have taken place do not provide for effective follow-up and undermines efficient intervention measures.

I look forward to our opportunity to dialogue on the issues related to my mandate and thank you for your attention.